

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No.M-21747 of 2011
Date of decision : 22.07.2015**

Mandeep Singh

.....Petitioner(s)

Versus

State of U.T. Chandigarh and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. S.S. Narula, Advocate
for the petitioner.

Mr. A.S. Virk, Advocate
for U.T. Chandigarh.

ANITA CHAUDHRY, J(ORAL)

1. This is a petition filed under Section 482 Cr.P.C. seeking quashing of FIR no.81 dated 27.03.2011, registered under Section 66-A of the Information Technology Act, 2000 and Section 420 of the Indian Penal Code, Police Station Sector, 11, Chandigarh.

2. The petitioner after completing his education from United Kingdom started working as a freelance software developer. He had purchased five tickets for the World Cup semi final match that was to be played between India and Pakistan at Mohali. An Inspector was browsing Ebay.com and found that five tickets for the cricket match were being sold for chair block entrance Gate No.2, PCA Mohali. The

seller had mentioned that he had purchased the tickets for his own use but on account of a wedding in the family, he did not need the tickets and the tickets could be purchased by depositing 1800 pounds for five tickets while a single ticket was available for Rs.30,000/-. The Inspector noted that Mandeep Singh had been luring the public and was reselling the ticket against a higher price than the price fixed by ICC. A DDR was entered and the Inspector instructed Ashok Kumar SI to give an online bid and leave his particulars on the bidding site. The Sub-Inspector gave a bid of Rs.95,000/- and gave his mobile number. The petitioner called back. Ashok Kumar, SI told Mandeep that the price of the ticket was Rs.250/- only but Mandeep insisted that it would be sold for Rs.1,25,000/-. SI Ashok Kumar called Mandeep to Barista Coffee Shop in Sector 11, Chandigarh. The police party was deployed around the coffee shop. A trap was laid and 24 currency notes of Rs.1,000/- were handed over to Ashok Kumar SI for purchasing one ticket. Mandeep entered the coffee shop and contacted Ashok Kumar SI. He told him that five tickets were available for Rs.1,20,000/-. Ashok Kumar SI insisted that he was only wanting to purchase one ticket. After negotiating, the price of one ticket was settled at Rs.24,000/-. The ticket was purchased. After the amount was paid, Ashok Kumar SI gave a signal and the shadow witness came forward and the petitioner was apprehended and the currency notes which were initialled, were recovered and subsequently the FIR was registered.

3. The police investigated into the matter and filed the challan under Section 66-A and Section 420 IPC.

4. I have heard learned counsel for both the parties.

5. The counsel for the petitioner contends that Section 66-A of the Information Technology Act, 2000 had been struck down by the Hon'ble Apex Court in ***Shreya Singhal Vs. Union of India***, decided on 24.03.2015 in Writ Petition (Criminal) No.167 of 2012. He further contends that no case under Section 420 IPC is made out as there was no intention to cheat and perusal of the FIR would show that the petitioner had informed that the price of the ticket was Rs.250/- but he was selling at a higher rate.

6. It is an admitted position that the Apex Court has struck down Section 66-A of the Information Technology Act. The State counsel urged that the fact remained that there was an element of cheating and the petitioner had committed the act of cheating as he has represented that the tickets were for gate no.2 whereas the actual tickets were found for gate no.5. He had urged that gate no. 2 is a VIP gate.

7. The petitioner had purchased tickets for the world cup semi final cricket match but for some reasons was unable to see the match and had put the tickets for re-sale on Ebay.com. A police official while perusing the website found that the tickets for the World Cup match were on sale. The history showed that three bids had already been made and the price demanded was Rs.30,000/- per ticket. The allegations are that the tickets were available for a limited price fixed by the ICC and much higher amount was quoted. The

police laid a trap and the petitioner was called to a coffee shop and was secured.

8. The FIR was registered under Section 66-A of IT Act and Section 420 of IPC. The Hon'ble Apex Court **Shreya Singhal's** case (supra) has struck down Section 66-A of the Information Technology Act, 2000.

9. The petitioner is seeking quashing of the FIR as its continuation would be an abuse of the process of the Court. The submission on behalf of the petitioner is that there are no rules and regulations which prohibit the transfer of the ticket and there was no cheating as the seller had informed the intending purchaser that he wanted to sell it at a higher price and the purchaser had also been informed that the price of the ticket was Rs.250/-.

10. Section 420 IPC reads as under:-

Section 420 in The Indian Penal Code

420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

11. The above would show that the offence of cheating is established when a person induces the other party to deliver any property. In the present case, there are no allegations of inducement or deceit. The petitioner had disclosed the original price of the ticket

to the purchaser and it cannot be said that there was any inducement.

Ticket resale also known as ticket scalping or ticket touting is an act of reselling tickets for admission to events. Tickets sold through secondary sources may be sold for less or more than their face value depending on demand, which itself tends to vary as the event date approaches. When the supply of tickets for a given event available through authorized ticket sellers is depleted, the event is considered “sold out”, generally increasing the market value for any tickets on offer through secondary sellers. Tickets resale is more common in sporting events and music events/concerts.

Scalpers sell tickets for high rates because there is more demand for tickets at the low sales price than available tickets. Hence, they resort to other forms of rationing like standing in line or lotteries.

In United Kingdom, resale of football tickets is illegal under Section 166 of the Criminal Justice and Public Order Act 1994 unless the resale is authorized by the organiser of the match.

In India, there is no legal restriction against reselling match tickets. There is a restriction for transfer of some train tickets but not all of them and are non-transferable. It is not the case here that the tickets were fake. It is not the case of the prosecution that the tickets were not transferable.

12. Section 482 Cr.P.C. reads as follows:-

482. Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court

to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

13. The inherent jurisdiction envisaged under Section 482 Cr.P.C. can be exercised in three circumstances:

- (i) to give effect to an order under the code
- (ii) to prevent the abuse of process of any Court
- (iii) to secure the ends of justice.

14. Broad guidelines have been framed by the Hon'ble Apex Court for exercise of powers under Section 482 Cr.P.C. in the case of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, AIR 1992 SC 604, which read as under:-

"105. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be

exercised.

- 1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- 2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- 4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.*
- 5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

15. I am of the view that the principles laid down for exercise of the powers under Section 482 Cr.P.C. would squarely apply to the facts and circumstances of the present case. The proceedings cannot be allowed to go on as it would be an abuse of the process of law.

Accordingly the petition is allowed and the FIR is quashed.

22.07.2015
sunil

(ANITA CHAUDHRY)
JUDGE