

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

**CRM NO. M-27484 OF 2014 (O&M)
DECIDED ON : 21.02.2015**

Krishan

...Petitioners

versus

Polu Ram and another

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Tarundeep Kumar, Advocate.

K. C. PURI, J. (ORAL)

CRM NO. 5777 OF 2015

The application stands allowed and the documents Annexures A-1 and A-2 are taken on record, subject to all just exceptions.

MAIN CASE

Challenge in this petition is to the order dated 17.04.2014 (Annexure P-2) passed by Additional Sessions Judge, Kurukshetra, vide which the revision preferred by the petitioner against the order dated 06.08.2013 (Annexure P-1) passed by Additional Chief Judicial Magistrate, Kurukshetra, was dismissed.

Briefly stated, the complainant Krishan filed a complaint under Sections 420/406/467/468/120-B/506 of the

Indian Penal Code (in short "the IPC") against Polu Ram and Satpal Sharma with the allegations that respondent No.1-Polu Ram is the younger brother of complainant now petitioner and respondent No.2 is the friend of respondent No.1. Both the respondents used to send people abroad. The complainant is a contractor of putting lintel on the buildings of owners and he is in possession of two mixture machines and two vibrators and earns ₹800/- per day. The respondents induced him and assured him to send him to Belgium and also assured him to get job of ₹50,000/- per month. The deal was struck at ₹4 lacs. The complainant paid a sum of ₹1,50,000/- in the month of February, 2005 along with passport and photos. ₹60,000/- was paid on 01.07.2005 after borrowing the same from his brother-in-law Sanjiv Kumar, ₹75,000/- was paid on 09.07.2005 after selling his shop to Kailash Chander, ₹25,000/- was paid on 10.09.2005 out of balance sale consideration of shop and ₹60,000/- was paid on 20.10.2005 after selling his two mixture machines to one Kailash Chand. In this manner, the respondents have received ₹3,70,000/- from the complainant in the presence of Kailash Chand, Dharam Pal and Sanjiv Kumar. The respondents did not send the complainant abroad. Hence, the complaint.

In pre-charge evidence, the complainant himself appeared as CW-1 and examined Sanjiv Kumar as CW-2, Dharam Pal as CW-3 and Kailash Chander as CW-4.

The learned trial court, after appraisal of the evidence, reached to the conclusion that the complainant has failed to prove the guilt of accused/respondents and consequently, dismissed the complaint vide order dated 06.08.2013.

Feeling dissatisfied against the order dated 06.08.2013 passed by Shri Sudhir Parmar, Additional Chief Judicial Magistrate, Kurukshetra, the complainant preferred revision petition. The said revision petition was dismissed vide order dated 17.04.2014 passed by Shri Rajeev Goyal, Additional Sessions Judge, Kurukshetra. Both the above said orders have been impugned in the present petition.

Learned counsel for the petitioner has submitted that for framing of charge, only prima-facie evidence is to be seen. The complainant/petitioner along with two other witnesses has supported the case of petitioner on all material aspects. Both the courts below have discharged the accused/respondents on the ground that Polu Ram-respondent No.1 is the brother of petitioner and there was a dispute regarding partition of property and on that account false case has been registered against the respondents. However, it is submitted that there was no reason for falsely implicating the respondents. The petitioner has arranged the funds by selling his shop and machinery and by borrowing money from his brother-in-law. So, both the courts below have committed grave error by discharging the accused.

I have considered the said submission but do not find any force in the same.

In the present case, the learned trial court after appraisal of the evidence, reached to the conclusion that there is no sufficient evidence to frame charge against the respondents. The petitioner preferred revision and the revisional court has observed that there is no illegality in the order. There was dispute regarding partition of property between the complainant and respondent No.1. Both the courts below have rightly held that the complaint was filed on that account only. The joint property as per complainant was partitioned in the year 2001 and the relation between the complainant and his brother i.e respondent no.1 were not cordial. So, in these circumstances, the complaint seems to have been filed with mala fide intention to put pressure upon the respondent no.1-Polu Ram who happen to be brother of complainant. Respondent No.2 seems to have been arrayed being friend of respondent No.1. Otherwise also, the present petition amounts to second revision petition which is not maintainable.

Consequently, the petition is without any merit and the same stands dismissed.

FEBRUARY 21, 2015
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(K. C. PURI)
JUDGE