HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-3549-2012
Date of decision:21.05.2015

Manoj Kumar

...Petitioner

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.B.S.Jaiswal, Advocate for the petitioner.

Ms.Anmol Grewal, AAG, Punjab.

Mr.Anil Chawla, Advocate for respondent No.2.

RAMESHWAR SINGH MALIK, J. (Oral)

Present one is yet another glaring example of blatant misuse of powers by the police authorities of the respondent-State of Punjab, which forced the petitioner to approach this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (`Cr.P.C.' for short), for seeking quashing of the impugned FIR No. 343 dated 3.10.2011 registered under Section 406 of the Indian Penal Code (`IPC' for short) at Police Station, Civil Lines, Amritsar.

Facts first:-

(a) Petitioner, who was serving as Pharmacist in the Health Department of the respondent-State of Punjab, took a loan of Rs.2 lacs from Andhra Bank on 7.5.2003 for the purpose of investment. Accordingly, he purchased 250 shares from Dr.Brij Bhushan Goel-respondent

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No.2/complainant, on 24.10.2003 against cash payment and later on said Dr.B.B.Goel-respondent No.2 sold another lot of 225 shares to the petitioner against the cash payment. At the time of purchase of these 475 shares, their total market value was about Rs2.75 lacs. After the purchase, these 475 shares were dematted in the account of the petitioner.

(b) Respondent No.2-complainant was a senior officer of the petitioner as both of them were working in the Health Department of the respondent-State of Punjab. Respondent No.2 was a Class-I officer and the petitioner was a Class-III employee. It is further pleaded case of the petitioner that respondent No.2-complainant allured the petitioner for purchasing the above-said 475 shares from him saying that in the share market, one can earn lot of profits within a short span of time. After purchase of the above-said 475 shares, petitioner sold the same to third party and reinvested the said amount in other shares on the advice of respondent No.2. Respondent No.2 retired from government service in the year 2007. Thereafter, petitioner and respondent No.2 remained in touch with each other as both were residing in the same locality.

(c) However, petitioner was taken aback when he was called by Shri. Gurdev Singh, in charge, Economic Offence Wing, Amritsar (`EO Wing, Amritsar') in the month of November 2009. Petitioner was informed that respondent N'o.2 has filed a written complaint against him, alleging that petitioner had not paid any amount for 475 shares of Reliance Company and 50 shares of Swaraj Mazda Company, which were sold to the petitioner by the complainant in the month of October 2003. During the course of enquiry, petitioner and respondent No.2 were summoned by the in charge,

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EO Wing, Amritsar. A detailed enquiry was conducted. The enquiry officer submitted his report and specifically mentioned therein that no offence against the petitioner was made out. The complaint was filed on 7.2.2010, vide report (Annexure P-1). The enquiry officer concluded that since matter relates to transaction of money by transferring of shares, as such, no offence was made out. In this regard, respondent No.2-complainant was asked to file his case in the court. Petitioner has further pleaded in para 5 of the petition and the averments taken in para 5 of the petition have gone unrebutted to the effect that respondent No.2-complainant filed two more frivolous complaints with the same fabricated facts before Police Station, Sarhali, District Tarn Taran and Police Station Chola Sahib, District Tarn Taran. However, both the complaints were not entertained by the respective police stations and were referred to Economic Wing, Amritsar.

(d) After sometime, complainant-respondent No.2 moved another identical complaint before the EO Wing, Amritsar. The matter was again enquired into by the in charge, EO Wing, Amritsar. It was observed by the Enquiry Officer that since matter relates to money transaction of shares, no criminal offence was made out. It was also observed that the complainant was repeatedly moving unnecessary complaints against Manoj Kumar-petitioner herein, which was absolutely wrong. The complainant was again asked to file his case in the court. The above-said earlier report dated 7.2.2010 was also referred. After conclusion of the enquiry, in charge, EO Wing, Amritsar, submitted his report dated 16.8.2010 (Annexure P-2). It is pertinent to note here that papers of this enquiry and the report dated 16.8.2010 were put up before the Commissioner of Police, Amritsar City,

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who had also seen it and approved the same. Accordingly, the complaint was again filed.

(e) Again, petitioner received intimation from the police of Police Station, Civil Lines, Amritsar in the month of October 2011. When petitioner went to the Police Station, Civil Lines, Amritsar, he was shocked to know that complainant has again filed a complaint against the petitioner, on the basis of same concocted and fabricated story with slight alteration. The complainant has not disclosed the factum of his above-said earlier complaints and fate thereof, which were enquired into by the EO Wing, Amritsar. Petitioner informed the police officials of the Police Station, Civil Lines, Amritsar that he had purchased the shares from the complainant against cash payment and nothing was due towards him.

(f) However, since concerned police officer was under undue pressure, he started pressurising the petitioner to pay an amount of Rs.2.75 lacs to Dr.B.B.Goel-respondent No.2, saying that he was a close relative of Commissioner of Police, Amritsar, who had recently joined as Commissioner of Police, Amritsar. Petitioner humbly submitted and tried to persuade the enquiry officer saying that he had already paid the amount to respondent No.2 and he was not bound to pay any amount again to the complainant. Persuasions by the petitioner did not work as the officer was under undue pressure and influence of Commissioner of Police, Amritsar. It was under these circumstances that impugned FIR No.343 dated 3.10.2011 came to be registered at Police Station, Civil Lines, Amritsar, on the basis of false and frivolous allegations levelled by the complainant.

(g) Gist of the impugned FIR, reads as under:-

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> *"TO The Commissioner of Police, Amrtisar. Sir, I gave 475 shares of Reliance Industries Ltd. to Sh.Manoj Kumar, resident of 40-B, Krishna Nagar, Lawrence Road, Amritsar for selling through share Plaza Brokers (Now Subham Stock Brokers) M.M. Malvya Road, Amritsar. These shares were given' from my Demat ac. No.1025877, NAM SECURITIES LTD. AMRITSAR. 250 shares were given on 24.10.2003 and 225 shares were given on 29.11.2003. Manoj Kumar got the shares transferred to his own Demat ac. No.10011302. The market price of reliance share at that time was Rs.600.00 per share. The value of shares is about Rs.2.75 lacs. Sir, neither he paid me the money nor he returned the shares. I requested him several time to pay the money but every time he used delaying tactics. Sir, he has done a fraud with me. Sir, I request you to kindly get me justice and recover money from him. Copy of my transaction statement dated 24.9.2009 showing transfer to Manoj Kumar's account No.10011302 and copy of transaction statement of Manoj Kumar showing sale of RIL shares from his account is enclosed herewith. Thanking you, Your's sincerely, Sd – Dr.Brij Bhushan Goyal, 7-Circular Road, near Med. College, Gurudwara."*

Having left with no other option, petitioner has approached this Court by way of instant petition under Section 482 Cr.P.C. for quashing of the impugned FIR and consequential proceedings arising therefrom. It is pertinent to note here that petitioner sought and was granted the concession of anticipatory bail by this Court vide order dated 6.1.2011 passed in CRM-M-32273-2011 (Annexure P-4). In the present case, notice of motion was issued and pursuant thereto, reply by way of affidavit dated 30.6.2012 of Assistant Commissioner of Police (North), Amritsar City was filed. A separate reply by way of affidavit dated 13.11.2013 was filed by the

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complainant-respondent No.2.

Learned counsel for the petitioner submits that registration of the impugned FIR is the result of the abuse of powers by the respondent-police authorities of the respondent-State of Punjab. He further submits that complainant-respondent, in tacit connivance with the then Commissioner of Police, Amritsar, has abused the process of law. He intentionally concealed the material fact that he had earlier filed exactly the similar complaints four times. Matter was enquired into and his complaints were found without any substance, which is clear from two enquiries reports, Annexure P-1 and P-2. In this regard, learned counsel for the petitioner places reliance on the judgment of the Hon'ble Supreme Court in **M/s Thermax Ltd. And other v. K.M.Johny and others, 2011 (13) SCC 412.** He further submits that had the claim of the complainant-respondent No.2 been genuine, he would have definitely filed a civil suit for recovery. However, since the suit for recovery would have hopelessly time barred, complainant was trying to circumvent the jurisdiction of the civil court, which would have estopped him from proceeding, on account of the law of limitation. He next contended that registration of the impugned FIR was possible only because of the illegal pressure put, by misusing the powers by the above-said senior police officer, who happened to be a close relative of the complainant. He concluded by submitting that since the petitioner has been put to an wholly unwarranted harassment, during all this long period, present petition deserves to be allowed with exemplary costs.

On the other hand, learned counsel for the State submits that since the petitioner failed to bring to the notice of the concerned police

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authorities, the factum of earlier complaints filed by the complainant-respondent No.2 and the result of enquiries thereof, present FIR was registered. However, so far as the relation between the complainant and the above-said the then Commissioner of Police, Amritsar, as alleged by the petitioner in para 8 of the petition is concerned, learned counsel for the State could not deny the same and rightly so because the specific averments taken by the petitioner in para 8 of the petition in this regard, have gone unrebutted in the corresponding para 8 of the reply filed on behalf of the respondent-State. He prays for dismissal of the petition.

Similarly, learned counsel for the complainant-respondent No.2, while supporting the contentions raised by the learned counsel for the State, submits that the petitioner did not pay the requisite amount of shares purchased by him from the complainant. He was under legal obligation to pay the value of shares to the complainant. Although the transaction took place in the month of November 2003, yet since it was a continuing cause of action, registration of FIR after about 8 years was not abuse of process of law in the circumstances of the case. He next contended that contents of para 8 of the petition have also been denied by respondent No.2-complainant, in para 8 of his reply. He also prays for dismissal of the instant petition.

Having heard the learned counsel for the parties at considerable length, aftrer careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that instant one has been found to be a fit case for interference at the hands of this Court, while exercising its inherent jurisdiction under

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Section 482 Cr.P.C., for the following more than one reasons.

A bare combined reading of the impugned FIR and earlier enquiries conducted by E.O. Wing, Amritsar, vide two enquiry reports Annexures P-1 and P-2, would make it crystal clear that the impugned FIR was the direct result of abuse of process of law, which has occasioned because of the misuse of his official power by the then Commissioner of Police, Amritsar, for extraneous considerations as he was a relative of the complainant-respondent No.2. It is so said, because the complainant, in tacit connivance with his above-said relative, got the impugned FIR registered with a view to blackmail the petitioner under the threat of false criminal prosecution.

Complainant-respondent No.2 got the impugned FIR registered, proceeding on a malafide approach, because he was trying to circumvent the jurisdiction of the civil court, which would have estopped him from proceeding in a civil suit for recovery, on account of the law of limitation. Having said that, this Court feels no hesitation to conclude that in the above-said fact situation of the present case, it is necessary to prevent the abuse of process of law and also to secure the ends of justice, thus, the impugned FIR along with subsequent proceedings arising therefrom are liable to be quashed, as the continuation of criminal proceedings against the petitioner, would cause a serious miscarriage of justice.

At the time of filing last complaint, which was fifth in a row and on the basis of which impugned FIR was registered, complainant-respondent No.2 intentionally concealed the material fact, about filing exactly similar complaints by him, at earlier points of time, which had been

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enquired into vide Annexures P-1 and P-2 and were filed as there was no substance found in any of the complaints. The argument raised by the learned counsel for the State that petitioner did not bring the factum of earlier complaints filed by the complainant to the notice of the concerned police authorities has been duly considered by this Court and the same has been found bereft of any merit.

Firstly, it does not appeal to reason that why the petitioner would not bring this fact to the notice of the concerned police authorities. Secondly, the respondent-police authorities themselves were under legal obligation to check their own official record, before registration of the impugned FIR. In fact, the concerned police authorities were well aware about Annexures P-1 and P-2, earlier enquiry reports. However, these reports were ignored by the concerned police official/officer(s) due to wholly unwarranted and illegal pressure put on them by the then Commissioner of Police, Amritsar, who happened to be a relative of the complainant-respondent No.2. Under these circumstances, it can be safely concluded that since the registration of the impugned FIR has resulted in the abuse of process of law and miscarriage of justice, present petition deserves to be allowed and the impugned FIR is liable to be dismissed, for this reason also.

Operative part of the second enquiry report dated 16.8.2010 (Annexure P-2), deserves to be noticed here and the same reads as under:-

> *"From the investigation of application it has come into light that from the statements of both the parties and perusal of documents, it has come into light that complainant has given 475 shares of Reliance Company and 50 shares of Swaraj*

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Mazda Company in the month of October 2003 to Manoj Kumar, but he did not return the money. This matter relates to money transaction of shares and in this regard, complainant had earlier filed a letter No.33584-CDI dated 21.11.09, in which report was submitted by Gurdev Singh Incharge E.O.Wing, on 7.2.10 and letter was got filed. That during investigation it has also come into light that in case there is any complaint regarding non-receipt of money of shares, then within the limitation period of three years, he can take his money of shares by filing a case against the company. Whereas this occurrence is of year 2003-2004 and about six years have elapsed. Now due to increase in rate of share against Manoj Kumar, which are absolutely wrong. Still, the complainant is directed that as the matter relates to transaction of money, he should file case in the Court. Copy of enquiry report submitted by Incharge E.O.Wing Gurdev Singh is also attached for perusal. As such complaint is returned after report and same be filed.

Report is submitted please."

Since it was an oral transaction of sale and purchase of shares between the complainant and the petitioner and it was not even prima facie established that the entrustment, as a matter of fact, had taken place, provisions of Section 406 IPC would not be attracted. Further, the complainant has been changing his stand in this regard from time to time as per his convenience and suitability. It is clear from the above-said operative part of the second enquiry report dated 16.8.2010 (Annexure P-2) that the complainant alleged to have sold 475 shares of Reliance Company to the petitioner and 50 shares of Swaraj Mazda Company. However, in the impugned FIR, 50 shares of Swaraj Mazda Company were conspicuously missing. This material fact also suggests that the complainant, in

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connivance with his above-said relative, was bent upon to put unwarranted pressure on the petitioner so as to extract more money, which was not due against the petitioner. In this view of the matter, it is unhesitatingly held that the impugned FIR cannot be sustained, for this reason as well.

The above-said view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court in the case of **K.M.Johny's** (supra). While referring to two earlier judgments of the Hon'ble Supreme Court, including its celebrated judgment in the **State of Haryana v. Bhajan Lal, 1991(1) RCR (Crl.) 382**, the Hon'ble Supreme Court in relevant para of 12 of its judgment in **K.M.Johny's** (supra), observed as under:-

> *".....After considering the power under Section 482 of the Code and adverting to series of decisions including* ***Nagawwa v. Veeranna Shivalingappa Konjalgi, (1976)3 SCC 736*** *and* ***State of Haryana v. Bhajan Lal, 1991(1) R.C.R. (Criminal) 383 : 1992 Supp (1) SCC 335,*** *this Court concluded thus :*
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> > *"7. In a few cases, the question arose whether a criminal prosecution could be permitted when the dispute between the parties is of predominantly civil nature and the appropriate remedy would be a civil suit. In one case reported in* ***Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre*** *this Court held that if the allegations in the complaint are both of a civil wrong and a criminal offence, there would be certain situations where it would predominantly be a civil wrong and may or may not amount to a criminal offence. That was a case relating to a trust. There were three trustees including the settlor. A large house constituted part of the trust property. The respondent and the complainant*

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were acting as Secretary and Manager of the Trust and the house owned by the Trust was in the possession of a tenant. The tenant vacated the building and the allegation in the complaint was that two officers of the Trust, in conspiracy with one of the trustees and his wife, created documents showing tenancy in respect of that house in favour of the wife of the trustee. Another trustee filed a criminal complaint alleging that there was commission of the offence under Sections 406, 467 read with Sections 34 and 120B of the Indian Penal Code. The accused persons challenged the proceedings before the High Court under Section 482 of the Code of Criminal Procedure and the High Court quashed the proceedings in respect of two of the accused persons. It was under those circumstances that this Court observed : (SCC Headnote)

Though a case of breach of trust may be both a civil wrong and a criminal offence but there would be certain situations where it would predominantly be a civil wrong and may or may not amount to a criminal offence. The present case is one of that type where, if at all, the facts may constitute a civil wrong and the ingredients of the criminal offences are wanting. Having regard to the relevant documents including the trust deed as also the correspondence following the creation of the tenancy, the submissions advanced on behalf of the parties, the natural relationship between the settlor and the trustee as mother and son and the fall out in their relationship and the fact that the wife of the cotrustee was no more interested in the tenancy, it must be held that the criminal case should not be continued."

10...... The injury alleged may form the basis of civil claim and may also constitute the ingredients of some crime punishable under criminal law. When there is

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dispute between the parties arising out of a transaction involving passing of valuable properties between them, the aggrieved person may have a right to sue for damages or compensation and at the same time, law permits the victim to proceed against the wrongdoer for having committed an offence of criminal breach of trust or cheating. Here the main offence alleged by the appellant is that the respondents committed the offence under Section 420 Indian Penal Code and the case of the appellant is that the respondents have cheated him and thereby dishonestly induced him to deliver property. To deceive is to induce a man to believe that a thing is true which is false and which the person practising the deceit knows or believes to be false. It must also be shown that there existed a fraudulent and dishonest intention at the time of commission of the offence. There is no allegation that the respondents made any wilful misrepresentation. Even according to the appellant, the parties entered into a valid lease agreement and the grievance of the appellant is that the respondents failed to discharge their contractual obligations. In the complaint, there is no allegation that there was fraud or dishonest inducement on the part of the respondents and thereby the respondents parted with the property. It is trite law and common sense that an honest man entering into a contract is deemed to represent that he has the present intention of carrying it out but if, having accepted the pecuniary advantage involved in the transaction, he fails to pay his debt, he does not necessarily evade the debt by deception."

After finding so, this Court concluded that the learned Judge of the High Court was perfectly justified in quashing the proceedings and disinclined to interfere in such matters dismissed the appeal."

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On facts, present case has been found very close to the facts of the case in **K.M.Johny's** (supra) rendered by the Hon'ble Supreme Court. Relevant observations made by the Hon'ble Supreme Court in paras 23 to 27 and 29 of its judgment , which can be gainfully followed in the present case, read as under:-

> *23. The Courts below failed to appreciate an important aspect that the complaint came to be filed in the year 2002 when the alleged disputes pertain to the period from 1993-1995. As rightly pointed out, the Courts below ought to have appreciated that respondent No. 1 was trying to circumvent the jurisdiction of the Civil Courts which estopped him from proceeding on account of the law of limitation.*
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> *24. We have already pointed out that respondent No. 1 had previously filed three complaints which were concluded after exhaustive enquiry with the respective police authorities. The first complaint was on 06.05.2000 being Javak No. 974/2000 with the Crime Branch-II, Pune which registered the same in its Criminal Register No. 11/2000. Pursuant thereto, the appellants were summoned and exhaustive enquiry was conducted by the Crime Branch-II and after recording the statements and perusal of documents and after undertaking an extensive interrogation, the Crime Branch-II closed the case. The said closure of the case was informed to respondent No. 1 by the police authorities by their letter dated 28.07.2000.*
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> *25. The materials placed further show that notwithstanding the complaint dated 06.05.2000 which was closed by the Crime Branch-II, another complaint on the same facts, was filed by respondent No. 1 at the Bhosari Police Station being Javak No. 3142/2001. It is pointed out that the appellant and its officers attended the Bhosari Police Station, thereafter the said complaint was also closed after the facts were placed before the officers of the Bhosari Police Station.*

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26. Apart from these complaints, respondent No. 1 once again filed a third complaint at the Commissioner's Office, Crime Branch, Pune being Javak No. 100/2001. The officers of appellant-Company appeared before the Crime Branch, who after perusing the documents and the written statements of appellant No. 1, informed the appellants that the matter was closed.

27. It is the grievance of the appellants that without disclosing these material facts and suppressing the fact that the complainant had previously filed three different complaints to various police authorities and that the said complaints were closed on being classified as civil disputes, the complainant had filed the aforesaid criminal complaint before the Magistrate being RCC No. 12 of 2002.

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29. The entire analysis of the complaints with reference to the principles enunciated above and the ingredients of Sections 405, 406, 420 read with Section 34 Indian Penal Code clearly show that there was inordinate delay and laches, the complaint itself is inherently improbable contains the flavour of civil nature and taking note of the closure of earlier three complaints that too after thorough investigation by the police, we are of the view that the Magistrate committed a grave error in calling for a report under Section 156(3) of the Code from the Crime Branch, Pune. In view of those infirmities and in the light of Section 482 of the Code, the High Court ought to have quashed those proceedings to safeguard the rights of the appellants. For these reasons, the order passed by the Judicial Magistrate First Class, Pimpri in CC No. 12 of 2002 on 20.08.2007 and the judgment of the High Court dated 11.01.2008 in Criminal Writ Petition No. 1622 of 2007 are set

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aside. The complaint filed by Respondent No. 1 herein is quashed."

Reverting back to the facts of the case in hand and respectfully following the law laid down by the Hon'ble Supreme Court in **K.M.Johny's** case (supra), it has been found that instant petition deserves to be allowed with costs.

During the course of hearing, when a pointed question was put to the learned counsel for the State as well as to the learned counsel for the complainant, as to how can they justify the registration of the impugned FIR and continuation of criminal proceedings any further, particularly in view of the above-said judgment of the Hon'ble Supreme Court in the case of **K.M.Johny's** (supra), none of them had any answer and rightly so, it being a matter of record.

Similarly, misuse and abuse of powers by the then Commissioner of Police, Amritsar City, in connivance with the complainant, has been clearly established in the present case. It is so said because firstly relation of the petitioner and the then Commissioner of Police, Amritsar, has gone undisputed on record. Again, specific averments taken by the petitioner in para 8 of the petition have not been denied at all in the reply filed on behalf of the respondent-State. Respondent No.2-complainant has also not denied specifically the categoric averments taken by the petitioner. Despite having been specifically named in para 8 of the petition and the reply by way of affidavit having been filed by none-else but the Assistant Commissioner of Police (North). Amritsar, still the then Commissioner of Police, Amritsar, neither ensured that the specific averments taken by the petitioner in para 8 of the petition are denied appropriately nor the then

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Commissioner of Police, Amritsar himself came forward to deny the factum of his relation with respondent No.2-complainant.

The specific averments taken by the petitioner in para 8 of the petition, which have not been specifically denied by any of the respondents, read as under:-

> *"That again in the month of October 2011, the petitioner received one more summons from Police of Police Lines, Amritsar and when the petitioner again went to Police Station, then he was shocked to know that Dr.B.B.Goyal has again filed a complaint against the petitioner with the same concocted and fabricated facts with slight alteration and has not again disclosed the fate of earlier two complaints inquired by E.O.Wing, Amritsar. The petitioner fairly re-informed the police officials that he had purchased the shares from Dr.B.B.Goyal against the cash payment and nothing is due towards him, but unfortunately, the police officials started pressurizing the petitioner to pay an amount of Rs.2.75 lacs to Dr.B.B.Goyal on the pretext that Dr.B.B.Goyal is a close family relative of Commissioner of Police, Amritsar namely Sh.R.P.Mittal, who has recently joined as Commissioner of Police Amritsar. The petitioner informed the Investigating Officer that as he had already paid the amount to Dr.B.B.Goyal so he is not bound to pay any amount to him, but unfortunately, under the influence of Commissioner of Police, Amritsar, the FIR No.343 dated 3.10.2011 under Section 406 of Indian Penal Code was registered at Police Station Civil Lines, Amritsar on the false and frivolous averments made by the complainant Dr.Brij Bhushan Goyal. "*

Sd/-Incharge

E.O.Wing, Amritsar
Dated: 16.8.10.

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Commissioner of Police,
Amritsar City"

Corresponding para 8 of the reply filed by way of affidavit of Assistant Commissioner of Police (North), Amritsar, on behalf of the respondent-State of Punjab, reads as under:-

> *"That in reply to the contents of para No. 8 of the petition it is submitted that detailed position has already been explained in Preliminary Submissions and para No.2 of the reply on merits and the same are reiterated. Rest of the contents of this para are the reproduction of the complaint of the complainant and hence need no reply."*

It is pertinent to note here that above-said averments of para 8 of the petition have also not been denied in the preliminary submissions and in para 2 of the reply on merits. Once the matter had already been enquired into on more than one occasions and every time the concerned police officer (s) have arrived at a definite conclusion that there was no substance in the complaints filed by the complainant, there was no scope of registration of the impugned FIR. In such a situation, the police authorities should not have become the recovery agency for the complainant, because the pure and simple money claim put forth by the complainant was not only false, delayed being time barred, but the same was frivolous as well. Thus, continuation of the impugned criminal proceedings against the petitioner would certainly amount to abuse of process of the court.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned FIR and the subsequent criminal

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proceedings arising therefrom are liable to be set aside and the same are hereby quashed, so as to secure ends of justice and also to prevent the abuse of process of law.

Consequently, the present petition is allowed with costs, which are quantified at Rs.50,000/- to be deposited by respondent No.2-complainant in the court of learned Chief Judicial Magistrate, Amritsar, within a period of six weeks from the date of receipt of a certified copy of this order. On deposit of Rs.50,000/- by the complainant-respondent No.2, the learned Chief Judicial Magistrate, Amritsar shall release the same in favour of the petitioner, towards compensation for facing the unwarranted harassment caused to him, at the hands of the complainant-respondent No.2. In case, the amount of Rs.50,000/- is not deposited by the complainant within the stipulated period, the Chief Judicial Magistrate, Amritsar, shall initiate appropriate action against respondent No.2 to ensure the recovery of the amount of costs and release thereof in favour of the complainant.

Resultantly, with the above-said observations made and directions issued, instant petition stands allowed with costs, as indicated above.

Let a copy of this order be sent to the learned Chief Judicial Magistrate, Amritsar, for meticulous compliance thereof.

21.05.2015 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**

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