

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-3625 of 2013 (O&M)

.....

Date of decision:4.2.2015

Munish Bhargava and others

.....Petitioners

v.

State of Haryana and another

.....Respondents

....

Present: Mr. Sumeet Goel, Advocate for the petitioners.

Mr. Deepak Grewal, Deputy Advocate General, Haryana for
the respondent-State.

Mr. Pankaj Midha, Advocate for complainant-respondent
No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C.
praying for quashing of FIR No.834 dated 21.12.2012 (Annexure-P.1)
registered for the offences under Sections 420 and 120-B IPC as also the
impugned order dated 13.10.2012 passed by learned Chief Judicial
Magistrate, Jind under Section 156(3) Cr.P.C. and all subsequent
proceedings arising therefrom.

Notice of motion has been issued in this case.

Mr. Deepak Grewal, learned Deputy Advocate General,
Haryana has put in appearance on behalf of the respondent-State and Mr.
Pankaj Midha, learned Advocate has appeared on behalf of complainant-
respondent No.2 and contested this petition.

I have heard learned counsel for the petitioners and learned Deputy Advocate General, Punjab appearing for the respondent-State as well as learned counsel for complainant-respondent No.2 and have gone through the record.

In the present case, a complaint has been filed by M/s Garg Electronics against Munish Bhargava, Samit Mishra, Chander Mani Singh and Videocon Industries Limited under Sections 420 and 120-B IPC, Police Station City, Jind. A perusal of the complaint shows that the main allegations against the accused are that they have not paid the benefits/ discounts as per the promise made during the business transaction of selling televisions. As per the complaint, there is allegation that Nano car and total amount of ₹2,21,700/- has not been given to the complainant.

A perusal of the record shows that the complaint was sent by the learned Chief Judicial Magistrate, Jind under Section 156(3) Cr.P.C. for making investigation as per law. As per the record admittedly, there were business transactions between the parties and there was promise regarding payment of certain benefits under the schemes of selling the television sets etc. of the company. As per the petitioners, they admit that the benefit of ₹35,000/- accrued to respondent No.2, but the claim of the respondent has been exaggerated. A perusal of the complaint itself shows that there is nothing in the complaint that the petitioners have the intention to cheat from the very beginning and by doing this they have cheated the complainant. Rather, a perusal of the complaint shows that it is only a dispute regarding the benefits given in the schemes in the

business transactions and that is also whether the amount is due as claimed by the complainant-respondent No.2 or as calculated by the petitioners. Therefore, simply on the ground that the amount has not been paid in the business transactions, the offence of cheating is not made out. The complainant is to show on the face of it that there was an intention to defraud him, which is missing.

Therefore, from the face of it, no offence is made out from the complaint and further the dispute is of a civil nature.

Learned counsel for the petitioners placed reliance on the judgment of the Hon'ble Supreme Court in V.Y. Jose and another v. State of Gujarat and another, 2009 (1) R.C.R. (Criminal) 869. I have gone through this judgment. In this case, the complainant placed an order with the accused to manufacture a machine as per given specification and paid an advance of ₹3 Lakhs. The accused manufactured a machine, which was rejected by the complainant as according to him, it was not as per given specification and demanded back ₹3 Lakhs with interest. The accused refused to give back the money. It was held that no offence of cheating is made out. It is also held in this case that there was no allegation against the accused in regard to existence of dishonest intention on his part when contract was entered into and the complaint was quashed. The law laid down in this judgment fully applies to the facts of this case.

On the same point, learned counsel for the petitioners placed reliance on the judgment of the Hon'ble Supreme Court in G. Sagar Suri v.

State of U.P., 2000 (1) R.C.R. (Cr.) 707. I have gone through this judgment. The law laid down in this judgment fully applies to the facts of the present case.

Keeping in view the facts and circumstances of the present case, I find that the matter which essentially involves dispute of a civil nature should not be allowed to be a subject matter of a criminal offence. The later being not a short cut of executing a decree which is non-existence. The present complaint filed by the complainant-respondent No.2 against the present petitioners is nothing but an abuse of the process of the law.

Finding merit in the present petition, the same is allowed. FIR No.834 dated 21.12.2012 (Annexure-P.1) registered for the offences under Sections 420 and 120-B IPC, as also the impugned order dated 13.10.2012 passed by learned Chief Judicial Magistrate, Jind under Section 156(3) Cr.P.C. on the complaint of the complainant-respondent No.2 and all subsequent proceedings including the complaint are hereby quashed.

February 4, 2015.

(Inderjit Singh)
Judge

hsp