

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

CRM-M No.37794 of 2013

Date of decision: 27th August, 2015

Jaswant Singh

... Petitioner

Versus

Mohinder Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Amit Saini, Advocate
for the petitioner.

Mr. G.S. Verma, Advocate
for the respondent.

FATEH DEEP SINGH, J.

In this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.54/1 of 13.08.2001 under Sections 383/384/403/420/500/511 IPC pending before learned Judicial Magistrate 1st Class, Samrala (Annexure P1), summoning orders dated 30.11.2006 (Annexure P5), order framing charge dated 03.01.2012 (Annexure P6) as well as orders dated 15.02.2013 (Annexure P8) dismissing the revision petition of the petitioner, the brief facts that needs to be

recalled are that petitioner Jaswant Singh filed a suit for recovery against present respondent Mohinder Kaur which was decreed through judgment and decree dated 30.04.1998. The judgment debtor deposited a sum of ₹20,000 on 02.06.1999, ₹50,000 on 14.06.2006 and ₹1,780 on 10.04.2001 in the Executing Court and the execution as such stood satisfied vide order dated 10.04.2001. It is thereafter, the complainant Mohinder Kaur filed a criminal complaint in question dated 13.08.2001 under Sections 383/384/403/420/500/511 IPC against the present petitioner on the allegations that she has already paid the whole amount of the decree out of the Court by paying ₹48,000 on the basis of a receipt alleged to be a photostat copy dated 18.01.2000 and that the petitioner has fraudulently obtained warrants of auction of the property of the complainant through the Executing Court in spite of the receipt of this money. A similar application was moved before the Executing Court for satisfaction of the decree dated 10.06.2000 (Annexure P3) and which plea was rejected by the Executing Court through orders dated 02.03.2001 (Annexure P4). It is on the basis of these allegations, the learned Court in the complaint case summoned the petitioner for commission of offences under Sections 383 and 384 IPC vide order dated 30.11.2006 (Annexure P5). The petitioner filed revision petition against the said order by way

of Annexure P7 but the same stood dismissed through orders dated 15.02.2013 (Annexure P8).

Upon hearing Mr. Amit Saini, Advocate representing the petitioner; Mr. G.S. Verma, Advocate for the respondent and on perusal of the records.

The only question of attrition between the parties is over the worth of the alleged receipt dated 18.01.2000 by way of photostat copy (mark A as put up in the trial Court). It has been rightly contended on behalf of the petitioner that the very question of legality and validity of this receipt has been duly considered by the Executing Court which has brushed aside this plea of the judgment debtor and thus, a comprehensive finding has been made on this point which has gone against the present respondent/complainant Mohinder Kaur and which has since attained finality. Thus, in view of the admitted stance that the parties had already litigated over legal rights and the final decision has gone in favour of the petitioner, are strong circumstances to reflect the presence of element of vengeance and revenge in the criminal complaint so lodged by the respondent and therefore, the courts need to be careful in scrutinizing such an evidence as it would lead to unlash of vindictiveness over a defeat in a Civil Court.

Learned counsel for the two sides have readily accepted the fact that it was only a photostat copy which has been brought on the record and therefore, the original having been kept away from the Court, was never brought on the record, the very allegations of forgery does not convinces this Court. Moreover, the petitioner accused has been hauled up for commission of offence under Section 383 IPC which defines extortion. Learned counsel for the respondent could not convince this Court how or by what means it has been established that there has been putting into fear in the mind of the complainant to extract this money by dishonest means mala fidely and illegally. Keeping in view the fact that the Civil Court has adjudicated on this receipt when an application was moved before the Executing Court by the present complainant/judgment debtor and therefore, comprehensively puts to rest the same. Such a finding of the Civil Court certainly is binding upon the Criminal Court.

Though this Court ought to be slow in interfering by the exercise of its inherent powers under Section 482 Cr.P.C. however, in view of the eventualities laid down in '**State of Haryana and others v. Ch.Bhajan Lal and others**' 1992 AIR SC 604, it will be a futile exercise and rather would tantamount to misuse of the process of the Court with no tangible results in view of the conclusive findings of the Civil Court and no purpose will be served by continuing with the

proceedings which harbours around total misuse of the process of the Court. The learned trial Court has totally misinterpreted this vital stand of the petitioner and has resulted in immense prejudice.

Thus, the criminal complaint 13.08.2001 (Annexure P1) along with the summoning orders dated 30.11.2006 (Annexure P5), order framing charge dated 03.01.2012 (Annexure P6) as well as orders dated 15.02.2013 (Annexure P8) are hereby quashed by way of acceptance of the present petition. Records be sent back forthwith.

(FATEH DEEP SINGH)
JUDGE

August 27, 2015
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