

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-41370 of 2015
Date of Decision : 7.12.2015

Tejinder Khurana

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. Vishal Gupta, Advocate for the petitioners.

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

RAMESHWAR SINGH MALIK, J

Petitioner seeks cancellation of anticipatory bail granted in favour of the respondents no.2 to 5 vide order dated 9.9.2015 (Annexure P-9) in FIR No.449 dated 20.5.2015 under Sections 406, 420 IPC registered at Police Station Sadar, Gurgaon.

Learned counsel for the petitioner, while placing reliance on the following judgements, submits that the learned Additional Sessions Judge has exceeded his jurisdiction, while granting the concession of anticipatory bail to respondents no.2 to 5:-

1. Brij Nandan Jaisal Vs. Munna @ Munna Jaiswal and another,
2009(1) SCC 678 (SC)
2. Subodh Kumar Yadav Vs. State of Bihar and another, 2009 (14)
SCC 638 (SC)

3. Sudhir Vs. State of Maharashtra and another, 2015 (4) RCR (Crl.) 649 (SC)

4. Baldev Krishan Shukla Vs. State of Haryana and others, 2007(4) RCR (Crl.) 532 (P&H).

He further submits that the accused-respondents have misrepresented their case after committing the offence of cheating with the petitioner. He seeks cancellation of bail, setting aside the order dated 9.9.2015 (Annexure P-9), by allowing the present petition.

After hearing learned counsel for the petitioner, going through the record of the case and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that in view of the peculiar facts and circumstances of the case, instant one has not been found to be a fit case, warranting interference at the hand of this court, while exercising its jurisdiction under Section 439(2) read with Section 482 Cr.P.C., for the following more than one reasons.

It is not the argued case on behalf of the petitioner that the accused-respondents have misused the concession of anticipatory bail granted to them, by the learned Additional Sessions Judge, vide impugned order dated 9.9.2015 (Annexure P-9). It is also not the argued case on behalf of the petitioner that custodial interrogation of the accused-respondents was the compulsive necessity of the investigating agency, so as to carry out an effective investigation. It is a matter of record that the FIR has been got registered by the petitioner on account of an alleged breach of contract between the parties. Out of the total disputed amount, petitioner has already received an amount of Rs.6.00 lacs from one of the accused namely; Ravinder Yadav on 17.1.2015, as recorded by the learned Additional Sessions Judge in the impugned order. In

such a situation, this court feels no hesitation to conclude that the learned Additional Sessions Judge has not exceeded his jurisdiction, while passing the impugned order and the same deserves to be upheld.

Coming to the judgements relied upon by learned counsel for the petitioner, there is no dispute about the law laid down therein. However, on close perusal of the cited judgements, none of them has been found to be of any help to the petitioner, being distinguishable on facts. Further, it is the settled proposition of law that peculiar facts of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in *Padmausund Rao and another Vs. State of Tamil Nadu and others*, 2002 (3) SCC 533.

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 instant one is misconceived petition, which is bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above said observations made, the present petition stands dismissed, however, with no order as to costs.

7.12.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE