

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-6545 of 2014

Date of decision: December 02, 2015

R.K.Sharma alias Rajesh Kumar Sharma

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.S.S.Majithia, Advocate
for the petitioner.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.VK.Jindal, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.139 dated 28.11.2011 under Sections 420, 120-B, 323 and 506 IPC registered at Police Station Civil Lines, Bathinda and subsequent proceedings arising thereof qua the petitioner.

Notice of motion was issued and learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that FIR in the present case has been registered on the basis of complaint addressed to SSP, Bathinda against Raj Kumar, Ram Gopal, Proprietor Bhawna Enterprises, Deepak, owner Mohit Steel Traders and R.K.Sharma, for taking legal action. As per the allegations in the FIR, the complainant entered into the business of Iron in the name of AP Jindal and Jindal Brothers and used to sell iron sheets at Bathinda and other parts of Punjab. Accused No.2 Raj Kumar and accused No.3 Ram Gopal entered into the business of selling iron sheet and breaking the same. Both the accused persons entered into business of sheets and complainant fulfilled the contract which was in the form of ₹12,38,500/- and after completion of contract, these accused persons paid ₹6,04,442/- through cheque and remaining amount was still pending. Both these accused came along with accused No.2 and 4 at complainant's shop and told that Deepak Kumar and Mohit Steel Traders are also trading in sheet at Ludhiana and they got effected a deal of approximately ₹40 lacs. Immediately, after the deal, the complainant made delivery of sheet worth ₹25 lacs for accused Deepak Kumar and Mohit Steel Traders on asking of accused No.1 and 2 but all the accused dilly dallying the matter. It is further stated in the FIR that complainant along with Panchayat went to Ludhiana to all the accused and they gave 4 cheques of ₹6 lacs each on 23.11.2010 and one hand written paper regarding the above-said cheques. When two cheques were presented for encashment, the same were bounced. After the cheques were bounced, the complainant contacted the accused and

told them to return his amount. On 26.01.2011, all the accused along with accused No.5 R.K.Sharma came to complainant's shop and asked that they have come to finish the deal, on which they handed over the cheque of ₹6,28,058/- and asked the complainant to return the bounced cheques. Then complainant said that he will not return the bounced cheques and will take legal action, upon which, accused persons got enraged and snatched the cheque of ₹6,28,058/- and torn the same and also started abusing the complainant. They further asked the complainant that if he will not return the cheque, then he could not do anything and they also threatened him with sharp edged weapons which they brought. When the complainant raised alarm, all the accused ran away.

The perusal of the record, specially the FIR shows that the allegations regard cheating etc. are not against the present petitioner R.K.Sharma @ Rajesh Kumar Sharma. He has no concern with the dealing of complainant with accused No.1 to 4 regarding sale of sheets etc. In the FIR, it is only stated that the present petitioner had come with other four accused to the complainant's shop. There is no allegation that present petitioner is to pay any money or having any deal or he prepared any cheque or snatched the cheque. There is also nothing in the FIR that any specific threat has been given by the present petitioner. There is also nothing in the FIR that any offence under Section 323 IPC is committed. The present petitioner has no concern with the dealing of complainant with other co-accused.

Therefore, from the perusal of the FIR itself, it is clear that

no offence is made out against the present petitioner and there is no allegation regarding committing of any offence of cheating etc. by the present petitioner and filing of the challan is nothing but abuse/misuse of process of law. In the present case, challan has been presented but the charges have not been framed so far.

In view of the above discussion, I find merit in the present petition and the same is allowed. Therefore, FIR No.139 dated 28.11.2011 under Sections 420, 120-B, 323 and 506 IPC registered at Police Station Civil Lines, Bathinda and subsequent proceedings arising therefrom, qua the petitioner are hereby quashed.

December 02, 2015
Vgulati

(INDERJIT SINGH)
JUDGE