

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

CRM-M-8924 of 2015

Date of Decision: 19.3.2015

Sanjeev Kumar

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM :HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present :Mr. Chanchal K. Singla, Advocate
for the petitioner.

- 1. Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner, by way of instant petition under Section 482 Cr.P.C., seeks quashing of FIR No. 57 dated 19.3.2014 under Sections 406/420/120-B of the Indian Penal Code ('IPC' for short), registered at Police Station City Khanna.

Learned counsel for the petitioner submits that in the present case, at the most it can be said that the petitioner could not discharge his contractual liability. However, there was no intention to commit offence under Sections 406/420/120-B IPC. Learned counsel for the

petitioner further submits that the present case is squarely covered by the judgment of the Hon'ble Supreme Court in **Kailash Verma Vs. Punjab State Civil Supplies Corporation and another, 2005 (1) RCR (criminal) 727**. Learned counsel for the petitioner, while referring to other documents placed on record in the form of Annexures P-3 to P-8, submits that it was nothing more than a civil liability. Petitioner never intended to commit offences in question. He concluded by submitting that even if allegations of the impugned FIR are taken to be true on their face value, no offence, whatsoever, is made out against the petitioner. He prays for allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, it cannot be said to be case a where even after taking allegations levelled in the impugned FIR, to be true on their face value without adding anything thereto and without extracting anything therefrom, no offence, whatsoever, is made out against the petitioner. Until and unless, this requirement of law is fulfilled, the impugned FIR cannot be ordered to be quashed.

Coming to the judgment relied upon by the learned counsel for the petitioner, there is no dispute about the law laid down therein. However, on a careful perusal of the cited judgment, the same has been found to be of no help to the petitioner, being distinguishable on facts. In the cited judgment, the accused came to be discharged by the learned Chief Judicial Magistrate and the said order of discharge was affirmed by the revisional court, after elaborately considering the peculiar facts of the said case. However, in the present case, the fact situation is entirely different.

Further, it is the settled principle 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 **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

So far as other documents referred to by the learned counsel for the petitioner contained in Annexures P-3 to P-8 are concerned, the same shall be the subject matter of investigation as well as criminal trial. The said documents cannot be appreciated by this Court, while

invoking its inherent jurisdiction under Section 482 Cr.P.C. The allegations against the petitioners are direct and specific. Having said that, this Court feels no hesitation to conclude that no case for quashing of FIR is made out.

The abovesaid view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court in **State of Haryana versus Bhajan Lal and others, AIR 1992 SC 604**. The relevant observations made by the Hon'ble Supreme Court, laying down seven principles, which can be gainfully followed in the present case, read as under:-

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in

support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused

and with a view to spite him due to private and personal grudge”

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned noticed hereinabove, this Court is of the considered view that present petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference is made out.

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

(RAMESHWAR SINGH MALIK)
JUDGE

19.3.2015
Ak Sharma