

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-9142 of 2014 (O&M)
Date of Decision: January 15, 2015

Jai Parkash Jamini

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Kunal Dawar, Advocate
for the petitioner.

Mr.S.S.Pannu, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Adarsh Jain, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner Jai Prakash Jamini has filed this petition under Section 482 Cr.P.C. against State of Haryana and Gaur Brahaman Yuva Samaj through its Chief Secretary Balbir Shastri, for quashing of FIR No.403 dated 23.07.2013 under Sections 406 and 120-B IPC registered at Police Station Mujesar, District Faridabad along with all subsequent proceedings arising therefrom including challan dated 09.11.2013 under Section 406 IPC.

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

At the time of arguments, learned counsel for the petitioner argued that no offence is made out in the present case. He further argued that admittedly Shree Aadi Gaur Brahaman Samaj, Faridabad is a registered society and they are engaged in conducting mass marriage event. As per the compromise, ₹1,10,000/- was given to the present petitioner but the petitioner has not returned that amount.

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

The perusal of the record shows that Annexure P-2 is the Panchayat Decision, which shows that it was resolved that committee will look after the couples taken by Yuva Mandal Shree Aadi Gaur Brahaman Samaj, receipts issued and any booking made by them and that all the income and expenditure will be handed over to Shree Aadi Gaur Brahaman Samaj, Faridabad. The civil suit pending between the parties were also withdrawn in view of the Panchayat decision. As per annexure P-4, ₹1,11,000/-, which was taken from the couples by Shree Aadi Gaur Brahaman Yuva Samaj, Sanjay Colony was received. Annexure P-5 shows that the amount taken by the couples was ₹1,26,000/-, total expenses including printing, travelling, clothes etc. were shown as ₹15,000/- and balance was shown as ₹1,11,000/-. Annexure P-6 is the copy of the Ledger showing depositing of this amount in the account of the petitioner which was stated to have been received from Shree Aadi Gaur Brahaman Yuva Mandal Sanjay Colony. Annexure P-7 is the document showing condition the mandatory rules of the event of mass marriage. As per condition

No.5, in case if groom and bride do not come present at the time of event then the deposited amount will not be refunded.

The perusal of all the documents on record including the Panchayat Razinama, there was no condition that amount of ₹1,11,000/- is to be returned to respondent No.2 in any eventuality. This amount was handed over to the petitioner for conducting the event of mass marriage.

From the perusal of the FIR even, in no way, it can be held that this amount has been misappropriated. If, there was no condition to return the amount in question to the private respondent nor there is any averment that this amount has been misused for other purposes or for personal use, then there is no breach of trust. Therefore, from the FIR itself, no offence under Section 406 IPC is made out.

Learned counsel for the petitioner has cited judgment passed by the Hon'ble Supreme Court in ***Sardar Singh vs. State of Haryana, 1977 AIR (SC) 1766***, in which it is held that mere failure or omission to return the property is not sufficient to constitute the offence of breach of Trust.

The registration of the present FIR is nothing but abuse of process of the law. Therefore, finding merit in the present petition, the same is allowed.

FIR No.403 dated 23.07.2013 and all the subsequent proceedings arising therefrom are hereby quashed.

January 15, 2015
Vgulati

(INDERJIT SINGH)
JUDGE