

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-12118 of 2015 (O&M)
Date of decision: January 08, 2016

Virender Singh

...Petitioner

Versus

Fateh Chand Jain and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.N.Lohan, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for setting aside the judgment dated 06.01.2015 passed by learned Sessions Judge, Jind and order dated 09.12.2013 passed by learned Sub Divisional Judicial Magistrate, Narwana.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Virender Singh complainant, filed the complaint against Fateh Chand Jain and others under Sections 406, 420 and 120-B IPC. As per the facts of the complaint, in the year 2006, complainant was authorized to sell and purchase Farmtrac tractor at Uchana Kalan by 'Jind Tractor, Jind' on commission basis as the agency of said tractor at Jind was with accused No.1. Accused No.1 and 2 were having the agency of tractor

while accused No.3 and 4 were working in their agency. All of them in connivance with each other, in order to defraud the complainant, took away two tractors from him for sale consideration of ₹7,35,000/- and paid only ₹1 lac and assured that the remaining amount would be paid within ten days but they did not pay the balance amount despite repeated requests. Accused after colluding with each other, in order to grab the money of the complainant, fraudulently purchased tractors from him but did not pay the balance amount and cheated him. The complainant requested the accused several times to pay the balance amount but in vain. It is also in the complaint that complainant reported the matter to the police and a case FIR was registered but no efforts were made to arrest the accused.

Learned SDJM, Narwana, vide order dated 09.12.2013, dismissed the complaint and acquitted the accused. The Court mainly relied upon the report under Section 202 Cr.P.C., in which, it is stated that the investigation was already made in criminal case by the State Crime Branch under the orders of ADGP(Crime), Haryana but no truth was found in the allegations levelled by the complainant and ultimately cancellation report was submitted by the police on 21.08.2009, which was accepted by the Court and accused Jagmender was discharged vide order dated 21.05.2011. The Court after discussing the law on the points, dismissed the complaint.

Otherwise also, from the perusal of the averments in the complaint, it is clear that it is a simple business transaction regarding which there is dispute regarding the payment of tractors. If the

tractors were sold by the complainant for ₹7,35,000/- and he only received ₹1 lac and he has not got executed any security document and later on if the accused have not made the payment, even then no offence is made out. For the purpose of proving the offence of cheating, it is to be shown that from the very beginning, the intention of the accused was to cheat the complainant but there are no such averments in the complaint. Rather, as per the averments in the complaint, the complainant requested the accused several times to pay the balance amount but in vain.

In view of the above discussion, I find that the order dated 09.12.2013 passed by learned SDJM, Narwana and the judgment dated 06.01.2015 passed by learned Sessions Judge, Jind, are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

January 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE