

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-13482 of 2016
Date of decision : April 23, 2016

Girdhari Lal

...Petitioner...

versus

State of Punjab

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Rajiv Joshi, Advocate,
for the petitioner.

JASPAL SINGH, J.

The instant petition has been preferred under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 49, dated 02.07.2015, under Sections 406 and 420 IPC, Police Station Division No.6, Jalandhar with all consequential proceedings arising therefrom.

2. The contention of learned counsel for the petitioner is that there were some commercial transactions in between the petitioner and the complainant in relation to supplying of chemical and dying material to the factory being run by the petitioner. The petitioner stops his factory since March 31, 2012 and withheld the payments due towards complainant, to the tune of ₹35 lacs, approximately. Even otherwise, the petitioner owes a lot of money to the complainant, which is due on account of supplying of material prior to the closure of the factory. Thus, even on the facts and circumstances

unfolded in the complaint or in the FIR got registered by the complainant-respondent, ingredients, which constitute an offence under Section 420 IPC, are not at all made out. The petitioner has sought quashing of FIR merely on the ground that the matter in controversy, if any, existing in between the parties is of civil nature; that the FIR has been registered by the complainant-respondent after an expiry of 3 years of the stopping of the business transactions that too just to put pressure upon him to part with money, specially, in the circumstances that limitation to file a suit to recover the amount, if any, outstanding against the petitioner has expired; that earlier an inquiry was conducted into the similar allegations, on the basis of a complaint lodged by the complainant and the allegations were found to be false. It was only, subsequent thereto, another complaint was lodged, on the basis of which FIR in question was registered by the police in connivance with the complainant. Even a lot of money is outstanding against the complainant, which has not been so far paid by him, in respect of the material supplied to him prior to March 31, 2012. Thus, in the given circumstances, the instant complaint is nothing but has been instituted with an ulterior motive to falsely implicate the petitioner into a criminal litigation.

3. This Court has given an anxious thought to the submission made by learned counsel for the petitioner and has perused the record. The mere fact that earlier complaint lodged by the complainant has been found to be false by the police during inquiry does not debar the complainant for filing a fresh complaint, if he is not satisfied with the conclusion arrived at by the police.

4. Prior to the registration of the FIR, thorough inquiry was conducted, in which, the petitioner was also associated. It was only, thereafter, the instant FIR was registered and the investigation was put into motion. The investigation in this case is still in progress. Moreover, investigation of an offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as such powers are legitimately exercised in strict compliance with the provisions of the Code of Criminal Procedure. If, on the basis of evidence collected during the investigation of the case, the investigating agency comes to the conclusion that the allegations levelled by the complainant are not established, it can proceed and recommend the cancellation of FIR but the mere fact that there was some business or commercial dealings in between the parties, which came to an end about 3 years prior to the lodging of FIR, does not *ipso facto* mean that the complaint or FIR has been got registered by the complainant with a malafide intention. A huge amount is involved, which is alleged to be still outstanding qua the petitioner and no initiative for the repayment thereof has been taken so far. Moreover, even issuance of notice of motion in such circumstances would result into an obstacle in the proper investigation of the matter in controversy.

5. Thus, at this stage, no case is made out for quashing of FIR.

6. Dismissed.

April 23, 2016
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(JASPAL SINGH)
JUDGE