

CRM-M-30176 of 2016

[1]

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No. 129

CRM No.M-30176 of 2016
Date of decision: August 29, 2016

Satpal Malhotra

.... Petitioner

Versus

State of Punjab & Anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vivek Salathia, Advocate,
for the petitioner.

JASPAL SINGH, J.

The instant petition has been preferred by petitioner-Satpal Malhotra under Section 482 Cr.P.C. for quashing order dated July 20, 2016 (Annexure P-1) passed by the Additional Sessions Judge, Amritsar as well as order dated August 06, 2013 (Annexure P-2) passed by Judicial Magistrate Ist Class, Amritsar in criminal complaint under Sections 452, 323, 420, 467, 468, 471 and 120-B IPC titled 'Satpal Malhotra vs. Yashpal Malhotra & Ors.'. Petitioner further made a prayer for summoning respondent No.2-Naresh Kumar as an accused in the aforesaid complaint.

CRM-M-30176 of 2016

[2]

2. The facts of the instant case are that petitioner instituted complaint against Yashpal Malhotra (his brother), Sameer (his nephew), Naresh Kumar (Wasika Naweess) and Branch Manager of Amritsar Central Cooperative Bank, Sultantwind Road, District Amritsar. The complainant alleged that he treated Yashpal Malhotra as a son and all the business affairs were entrusted to him as well as Rs.5 lacs for the expenses to be incurred during his treatment of his ailment. The complainant alleged that he was not provided proper treatment by Yashpal Malhotra and even he did not provide him any detail of the expenses incurred on his treatment. The complainant operated his bank account and found that only Rs.610/- were left in the account. He asked the Manager that he was having Rs.1,37,000/- in the account. But the Manager did not pay any heed. The complainant alleged that Yashpal Malhotra and Sameer, in connivance with each other operated his account by forging signatures and withdrawn the amount from his bank account. He reported the matter to the police, but police did not take any action. Accused Nos.1 & 2 told the complainant that they took earnest money with regard to house where he is living for the purpose of execution of sale deed with the help of accused No.3-Naresh Kumar (Wasika Naweess) by appending his forged signatures. On October 25, 2010, Yashpal Malhotra along with some un-identified persons came to his house and threatened him. Accused No.2-Sameer gave him slaps. Accused No.1 was armed with dang and accused No.2 was armed with baseball bat. They inflicted injuries upon the complainant. In preliminary evidence, complainant stepped into witness box as CW-1 and reiterated his version. He proved on record sale deed Ex.P-1 & Ex.C-2 revocation as Ex.C-3,

CRM-M-30176 of 2016

[3]

hospitalization record as from Ex.P-4 to Ex.C-8, saving book as Ex.C-10, UPC receipt as Ex.P-11 to Ex.C-13, postal receipt as Ex.P-9. Surinder Kumari was examined as CW-2. Ashok Kumar was examined as CW-3. Anil Arora was examined as CW-4. The trial court found that prima facie case under Sections 452, 323, 420 IPC against accused Nos.1 & 2 and they were ordered to be summoned. However, complaint against accused No.3- Naresh Kumar (Wasika Naweess) and accused No.4- Branch Manager of Amritsar Central Cooperative Bank, Sultantwind Road, District Amritsar was dismissed. Complainant preferred revision before the Additional Sessions Judge, Amritsar which was dismissed vide impugned order dated July 20, 2016, by holding that the allegations levelled by the complainant against accused No.3-Naresh Kumar do not find any support from any kind of document and thus, there was no ground to summon accused No.3-Naresh Kumar.

3. Learned counsel for the petitioner has contended during the arguments that petitioner has been suffering from chronic ailments and under constant treatment of the doctors. He remained admitted in hospital. By taking advantage of the fact that petitioner had very less chances of survival, his brother Yashpal Malhotra, in connivance with his son and Bank employees forged his signatures on withdrawal slips and withdrew the entire money from his saving account. Yashpal Malik got the signatures of the petitioner on a blank stamp paper and converted the same into an agreement to sell wherein the petitioner agreed to sell 41 Sq. Yds. of his residential house to his brother. Further, Yashpal Malhotra sold away his shops including other properties. Petitioner came to know about the

CRM-M-30176 of 2016

[4]

misdeeds of accused when his medical condition got improved. He inquired about his bank account and became aware of the fact that his brother in connivance with the Bank Manager and a Class-IV employee namely Harpreet Singh withdrew the entire amount from his account by forging his signatures.

4. Learned counsel further contends that the courts below failed to appreciate the evidence produced by him and has prayed that the impugned order(s) be set aside to the extent, vide which, his complaint qua respondent No.2-Naresh Kumar was dismissed and respondent No.2 be summoned as an accused in the complaint to face trial along with his co-accused.

5. This court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner and gone through the record available on file.

6. The allegation against respondent No.2-Naresh Kumar finds mention in Para no.5 of the complaint, wherein it is alleged that accused Nos.1 & 2 hurled abuses to him and exhorted that in respect of the house, in which, he (complainant) is residing, they have got prepared a written agreement from respondent No.2-Naresh Kumar. Copy of the said agreement has also been produced on file as Mark-E which does not bear any stamp or signature of Naresh Kumar (Wasika Nawees). Moreover, allegations levelled by the complainant against respondent No.2-Naresh Kumar do not find any support from any kind of document or evidence. This is not cogent or trustworthy evidence to attract any sort of criminal offence to summon him to face trial. This court is of the considered view that he has not been summoned rightly by the court(s) below. In this view

CRM-M-30176 of 2016

[5]

of the matter, there was no ground to summon respondent No.2-Naresh Kumar.

7. In the light of what has been discussed above, this court does not find any illegality or infirmity in the impugned order(s) passed by the courts below.

8. The instant petition being devoid of any merit is dismissed.

August 29, 2016

Avin/Ankur

**(JASPAL SINGH)
JUDGE**

**Whether Speaking/Reasoned
Whether Reportable**

**Yes/No
Yes/No**