

CRM-M-31861-2016

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

CRM-M-31861-2016 (O & M)

Date of Decision: 09.09.2016

Sahoon

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Gopal Sharma, Advocate,
for the petitioner.

INDERJIT SINGH, J.

The present petition has been filed by petitioner, Sahoon against State of Haryana and others under Section 482 Cr.P.C. for setting aside the order dated 13.02.2015 (Annexure P-10) passed by learned Judicial Magistrate Ist Class, Ferozepur Jhirka whereby criminal complaint No.174 dated 28.04.2012, filed by the petitioner against respondent Nos.2 to 4, under Sections 364-A, 506, 341, 342, 120-B, 420, 467, 468, 471, 195-A and 193 IPC, was dismissed and the judgment dated 10.03.2016 (Annexure P-11) passed by learned Additional Sessions Judge, Mewat whereby criminal revision preferred by the petitioner was dismissed and a prayer has been made that respondent Nos.2 to 4 be summoned to face trial in the complaint case.

I have heard learned counsel for the petitioner and perused the record.

From the record, I find that the petitioner-complainant filed complaint against respondent Nos.2 to 4, namely, Bachchu Singh, Dhan

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Singh and Taiyab under Sections 364-A, 506, 341, 342, 120-B, 420, 467, 468, 471, 195-A and 193 IPC. The brief facts of the case noted down in the judgment passed by learned Judicial Magistrate Ist Class, Ferozepur Jhirka, are as under:

“Present complaint has been filed by complainant namely Sahoan against the accused persons namely Bachchu Singh etc., under Sections 364-A, 506, 341, 342, 120-B, 420, 467, 468, 471, 195-A, 193 of the Indian Penal Code, with the averments that during the year 2002, complainant got married with Shakila daughter of Daud, resident of village Neemla, P.S.Kamman, District Bharatpur, according to Muslim rites and rituals. From the beginning of marriage, Shakila was not happy with complainant and started to dispute with the family members of complainant; due to which, he get divorce. A trial for demand of dowry is pending against him in the Court of Kaaman. On 06.08.2011, he and his brother-in-law namely Ramjan, resident of Gurgaon, P.S.Kaaman, District Bharatpur at about 01.30 P.M. were present at Punhana, then accused persons namely Issa, Mubarik, Irfan, residents of village Dallabas, P.S.Punhana, Daud, Kasam, Shakil, Sahid, Imran, Liyakat, Sharif, Munsha, Iqbal, Rishal and Farid residents of village Neemla, P.S.Kaaman, came there in 2 Bolero in furtherance to their common object and kidnapped him. The incident was seen by Ibrahim and Basir. His brother-in-law namely Ramjan has seen the incident. They did not give him any meal to eat. They demand ransom of Rs.2,00,000/- otherwise they kill complainant. Father of complainant lodged report in P.S.Punhana. On 07.08.2011, father of complainant along with Mazid, Usman sons of Yasin, resident of Ferozepur Meo came to Police Station Punhana, but accused Dhan Singh insulted his father. An application was also moved before the Superintendent of Police, Mewat in this regard, but no action

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was taken. On 10.08.2011, a complaint was filed in the Hon'ble Court by his father; due to which, accused Bachchu Singh filed his false report in the Hon'ble Court. Accused Bachchhu Singh has taken his signature over the blank papers. He has also taken his photograph against his wish. Accused persons No.1 and 2 namely Bachchu Singh and Dhan Singh in collusion with accused No.3 Daud did not produce the complainant before the Court despite directions. Accused Bachchu Singh has taken bribe of Rs.30,000/- from accused Daud and threatened to complainant if he told anything in the court against them, then he will kill him. On the directions of Hon'ble High Court, Police has released him from the illegal custody of accused persons. Aggrieved with no police action; complainant filed present complaint.”

Learned Judicial Magistrate Ist Class, Ferozepur Jhirka after discussing preliminary evidence i.e. statements of complainant Sagoon (CW 3), Mazid (CW 1), Abdul Rahim (CW 2) and Usman (CW 4), dismissed the complaint vide impugned order dated 13.02.2015 (Annexure P-10). A revision was filed by the petitioner and the same was dismissed by learned Additional Sessions Judge, Mewat vide impugned judgment dated 10.03.2016 (Annexure P-11).

Aggrieved from the abovesaid judgments, present petition has been filed.

The facts of the complaint show that allegations regarding kidnapping for ransom, cheating/fraud and threaten to life are against other accused and a separate complaint has been filed against them and proceedings are going on in that complaint. At the time of arguments, learned counsel for the petitioner argued that respondent Nos.2 to 4 have conspired with the main accused and they are liable to be summoned under

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Section 120-B IPC.

Admittedly, respondent Nos.2 to 4 were not made as accused in other complaint/criminal proceedings pending against main accused. If respondent Nos.2 to 4 have conspired with the main accused, then they should be made accused in that complaint, separate complaint is not to be filed against them. Furthermore, as per the complaint, father of complainant came to the police station, but accused-Dhan Singh insulted his father and application was also moved before the Superintendent of Police, Mewat. It is stated that on 10.08.2011, a complaint was filed in the Court by the father of complainant, due to which accused-Bachchu Singh filed false report in the Court. With regard to these averments, there is no finding recorded by the Court that accused-Bachchu Singh filed any false report before the Court. The allegation that accused-Bachchu Singh had taken signatures of the complainant on some blank papers and had taken his photographs against his wishes, is not supported and corroborated by any cogent evidence.

The allegations against respondent Nos.2 to 4 are that accused, namely Bachchu Singh and Dhan Singh in collusion with accused, namely Taiyab did not produce the complainant before the Court despite directions. If there is any disobedience of the orders of the court, then the court concerned has to take action. It does not independently amount to any offence. It is also the allegation that accused-Bachchu Singh had taken bribe of ₹30,000/- from accused-Daud, but neither the complaint has been filed under the provisions of the Prevention of Corruption Act nor any requisite sanction has been taken.

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The trial Court after discussing all these facts and evidence found no ground to proceed further against respondent Nos.2 to 4. It is also held by the trial Court that the complainant has alleged cheating or fraud played by respondent Nos.2 to 4, but he has failed to show as to which document or instrument is falsely procured by them to cause wrongful loss to him. It has also been held that after the investigation, cancellation report has been filed by the police in that case. The trial Court has also held that no witness has corroborated the factum of threat to life advanced to the complainant.

In revision, the lower Appellate Court has discussed all the facts and ultimately dismissed the same vide impugned judgment dated 10.03.2016. The lower Appellate Court has given the findings as per law.

The impugned order and judgment passed by the courts below are correct, as per law and evidence. In no way, the same can be held as perverse or illegal. At the time of arguments, learned counsel for the petitioner failed to point out as to which material evidence has been misread or which material evidence has not been considered by the courts below. Resultantly, the impugned order and judgment are upheld.

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

09.09.2016
parveen kumar

(INDERJIT SINGH)
JUDGE

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No