

CRM-M-3747-2011 (O & M)

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

CRM-M-3747-2011 (O & M)

Date of Decision: 27.09.2016

Kuljit Kaur and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. J.S.Gill, Advocate,
for the petitioners.

Ms. Shivali, AAG, Punjab.

None for respondent No.2.

INDERJIT SINGH, J.

Petitioners, Kuljit Kaur, Jaswinder Singh, Harinder Kumar @ Hinda and Harvinder Singh @ Kuku have filed this petition under Section 482 Cr.P.C. for quashing of FIR No.73 dated 08.06.2007, registered at Police Kot Ise Khan, District Moga, under Sections 420, 506 and 120-B of the Indian Penal Code since continuation of the same is an abuse of process of law and is being used as a tool by the complainant to harass the petitioners, who are otherwise innocent and have nothing to do with the alleged allegations, on the grounds mentioned in the petition.

Notice of motion was issued in this case.

Learned State counsel put in appearance on behalf of respondent No.1-State and contested this petition.

CRM-M-3747-2011 (O & M)

Today, none has appeared on behalf of respondent No.2.

I have heard learned counsel for the petitioners as well as learned State counsel and perused the record.

From the record, I find that FIR, in the present case, has been registered on the basis of complaint/affidavit filed by Maninder Singh in which it is stated that he used to go to village Brahmke, Tehsil and District Moga every Thursday for paying obeisance. He was having loyalty towards Dr. Partap Singh, Incharge and Manager of the Dera situated in village Brahmke and he had developed close proximity with the said Manager. Dr. Partap Singh told the complainant that he should come to the Dera every week and serve with devotion and his wishes would be fulfilled. Dr. Partap Singh came to know that the complainant was interested in going abroad, therefore, he told him that another devotee, who has sent a number of people abroad, comes to him and if he is interested, he would send him abroad on his (Dr. Partap) asking and he shall have to spend about ₹25 lacs. The complainant fell in the trap of Dr. Partap Singh and while taking advantage of his devotion and loyalty, he misled him and made him agree to give money. Dr. Partap Singh asked him on phone to make arrangement of ₹10 lacs and bring his passport and the said person has to come to him and he would give the same to him. After arranging the said amount, the complainant reached the Babe Ke Dera village Brahmke on 15.11.2006 where Dr. Partap Singh introduced him to his devotee Chand Singh. The complainant had seen the said Chand Singh a number of times there. As per the FIR, in the presence of Yadvinder Singh and Jagmohan Singh, the complainant gave ₹10 lacs and passport to the Manager of the Dera and

CRM-M-3747-2011 (O & M)

Baba took the amount and kept the same with him and assured him to send to Canada. As per the version of FIR, Dr. Partap Singh neither sent the complainant abroad, nor returned the money and passport. The said Partap Singh took undue advantage of complainant and cheated for ₹10 lacs by misleading him.

The FIR has been registered on the basis of affidavit given by Maninder Singh, copy of which is Annexure P-2 in which same allegations have been levelled. The affidavit is dated 14.05.2007 and the FIR was registered on 08.06.2007. Having this version improved later, on 08.06.2007, statement of complainant-Maninder Singh was recorded under Section 161 Cr.P.C. in which he stated the same facts as mentioned in the FIR regarding inducement by Dr. Partap Singh and giving ₹10 lacs to him, but he made improvements of some facts by stating that he is doing a business of property dealer and he had acquaintance with Kuljit Kaur.

In his statement recorded under Section 161 Cr.P.C., the complainant stated that he had acquaintance with Kuljit Kaur and Jaswinder Singh and Harwinder Singh, who is brother-in-law of Kuljit Kaur. He also stated that Kuljit Kaur had come from Canada and he talked to her for sending him abroad. Kuljit Kaur told that she would introduce him to a person who would send him abroad. All the above said persons took him to one Dera on Thursday in village Brahmke where Dr. Partap Singh is in-charge. In his statement under Section 161 Cr.P.C, the complainant improved his version by saying that on 15.11.2006, Kuljit Kaur, Jaswinder Singh, Harinder Singh @ Hinda, Harvinder Singh @ Kukku, Ajmer Singh and Devinder Singh had come there as devotees. After the prayer, all of

CRM-M-3747-2011 (O & M)

them were talking with each other in a room. After sometime, Baba Dr. Partap Singh came out with Ajmer Singh and told that Chand Singh is his disciple/devotee and he would send the complainant to Canada. As per the statement under Section 161 Cr.P.C., the complainant handed over ₹10 lacs as well as his passport NoA-86331472 to the above said Baba Partap Singh. There is also another improvement in the statement of complainant that now he had come to know that his amount of ₹10 lacs has been distributed by Kuljit Kaur, Jaswinder Singh, Harinder Singh @ Hinda, Harvinder Singh @ Kukku, Ajmer Singh @ Chand Singh, Davinder Singh and Dr. Partap Singh. As per the statement under Section 161 Cr.P.C, neither the present petitioners have received any money from the complainant, nor they have induced him to part with the money.

Admittedly, the money was paid to Dr. Partap Singh, who introduced the complainant with Chand Singh for sending him abroad and asked for the money. None of the present four petitioners were earlier named in the affidavit on the basis of which the FIR was registered, which was the initial version of the complainant. The recording of statement of complainant under Section 161 Cr.P.C. by the police is nothing but to improve his version on material facts and to implicate these four present petitioners. No money was paid to the petitioners; nor they cheated the complainant nor played any active role in the commission of the offence.

Perusal of record, itself, shows that involvement of the present petitioners, who have nothing to do with the commission of offence amounts to abuse of process of law and also miscarriage of justice.

Therefore, finding merits in the present petition, the same is

CRM-M-3747-2011 (O & M)

allowed and FIR No.73 dated 08.06.2007, registered at Police Kot Ise Khan, District Moga, under Sections 420, 506 and 120-B of the Indian Penal Code and all the subsequent proceedings arising therefrom are quashed qua the present petitioners only.

27.09.2016
parveen kumar

(INDERJIT SINGH)
JUDGE

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