

**202-A IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-33805 of 2015

Date of decision : 20.10.2016

Yogesh Kumar

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.P.S.Mirpur, Advocate for the petitioner.

Ms.Harsimrat Rai, DAG, Punjab.

Mr. A.K.Jaiswal, Advocate for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No.106 dated 27.08.2015, registered under Sections 379, 411, 120-B of the Indian Penal Code (for short 'the IPC'), at Police Station Bajakhana, District Faridkot with a direction to the police not to harass the petitioner.

The facts are that the complainant is the security guard of Ambuja Cement Factory at Bathinda and 500 bags of cement were loaded in a truck to be delivered at Hisar but the same did not reach there.

Learned counsel for the petitioner submits that the petitioner is not the owner of the truck in question and that one Krishan Baldev is the owner and driver Jarnail Singh is working on the said truck who became dishonest and did not deliver the goods at their destination. The truck and its driver were both intercepted near Bargardi and the truck was taken into

possession and driver was also arrested. A representation dated 26.08.2015 was also made by the original owner of the truck namely Krishan Baldev and son of the driver namely Ranbir Singh regarding the false implication of his father Jarnail Singh which are Annexures P-2 and P-3 respectively. As per learned counsel, the petitioner has nothing to do with the transport company. The original owner of the truck in question is one Krishan Baldev.

Learned counsel for the State on the the other hand has argued that petitioner is the son of Krishan Baldev. A perusal of documents Annexures R-2/2, R2/3 and R-2/4 shows that in fact petitioner is the manager of the transport company i.e. KB Road Lines and is actively engaged in communication with the Ambuja Cement Company. So, the argument of learned counsel for the petitioner that petitioner has nothing to do with the transport company is completely against the record.

After hearing learned counsel for the petitioner as well as learned State counsel and learned counsel for the complainant, this Court is of the view that it cannot be said at this stage that no prima facie case is made out against the petitioner especially when the counsel for the petitioner is not able to substantiate his arguments by producing any document. There is no proof with regard to sending of representations Annexures P-2 and P-3 to the concerned authorities as pleaded by the petitioner. Moreover, it is a matter of evidence and even charge has not been framed in this case.

This Court shall refrain from commenting on the rival contentions of the parties lest it prejudice the case of either party. The disputed questions of fact cannot be gone into at this stage. This Court feels that no cause of action has arisen in favour of the petitioner to invoke the inherent jurisdiction of this Court by filing the instant petition.

Consequently, the present petition is dismissed. It is, however, made clear that the observations made in this order on the merits of the case, are prima facie in nature, and made only for the purpose of the present discussion and the same shall not come in the way of either party at the trial. The Trial Court shall proceed to deal with the case on its own merits.

20.10.2016
sunita

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No