

Criminal Misc.No.M-35429 of 2014 (O&M)

Date of decision: 25th February, 2016

Aizaz Ahmed alias Mulla

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Sandeep Gupta, Advocate,
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana,
for the respondent(s)-State.

INDERJIT SINGH, J.

Petitioner has preferred the instant petition under Section 482 Cr.P.C., against respondent-State of Haryana, for quashing the FIR No.312 dated 10.09.2010, registered at Police Station Hathin, District Palwal, under Sections 420, 384 IPC and subsequent proceedings arising therefrom.

Notice of motion was issued.

Learned State counsel appeared and contested the instant petition.

Brief facts of the case are that the FIR in the present case has been registered under Sections 420, 384 IPC on the complaint of Suresh Kumar, in which he stated that he has the business of clothes at Gandhi Nagar, Delhi. On 18.01.2010, he had gone to his friend's shop where one person namely Paras, to whom the complainant already knew, met him and shown him a tamba (copper) rod, measuring 8 inch in length and 6 mm in width. Paras also stated that he is having 05 ton rods of copper. He offered the complainant to

purchase the said copper rods at a cheaper rate i.e. Rs.10/- per kg, which is less than the market rate. It is further stated in the complaint that the complainant alongwith other persons at the instance of accused went to Hathin Bus Stand where they met a boy and then complainant party followed that boy who took them to village Rudaka, five kilometer ahead which is on main road and on main road talk was held and deal was finalized at Rs.325/- per kg. and delivery was assured in 3-4 days and token money of Rs.11,000/- cash was taken. On 27.01.2010, the complainant party arranged some money and called them and said that they send the goods at Delhi and they (complainant party) will pay them whole money but they (accused party) did not agree and stated that they will receive half of the money at their own place. It is further stated in the complaint that the complainant, Anil Jain, Raju-Driver, Paras, Sameer friend of Paras and two other persons alongwith money went there and met Rahul and his friend Sameer, who took Anil Jain, Paras and Sameer inside the room. After 5-10 minutes, Anil Jain came out after raising a noise 'loot liya-loot liya' and behind him, Rahul, Sameer and his friend came out and caught Anil Jain, Raju and the complainant in the car by showing a country-made pistol and then by putting the pistol near the ear of complainant asked for the rest of money otherwise they will shoot him and the complainant due to fear gave Rs.2,00,000/-. Then they also snatched five tola gold chain and ring of Raju driver and asked the complainant party to go to Delhi. With such type of allegations, the FIR was registered.

Learned counsel for the petitioner contended that the occurrence took place in January, 2010 but the FIR was registered on 10.09.2010 and there is delay of more than 07 months. It is also stated that the FIR dated 15.02.2010, which was got registered by the petitioner, is counter blast to the FIR in question.

On the other hand, learned State counsel has contended that the FIR dated 15.02.2010, which was got registered by the petitioner, has been recommended for cancellation.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, this Court finds that the fact regarding the counter blast is to be proved by way of evidence as the investigation has been completed; challan has been presented; charges have been framed and the case is fixed for prosecution evidence. Similarly, the delay in recording the FIR is to be explained by the prosecution by leading evidence. These are findings of fact and are to be given by the learned trial Court. At this stage, in no way, it can be held that the FIR is false one or amounts to abuse of the process of law nor it can be held that no case is made out. Therefore, the FIR is not liable to be quashed.

In view of the aforesaid discussion, finding no merit in the instant petition, the same is dismissed.

25th February, 2016
mamta

(INDERJIT SINGH)
JUDGE