

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M 3616 of 2014 (O&M)

Date of decision: 19.02.2016

Gurpreet Singh

.....Petitioner

versus

State of Punjab and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Veneet Sharma, Advocate for the petitioner
Mr.A.P.S.Gill, AAG Punjab
Mr.Vinay Kumar, Advocate for the respondent No.2

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

CM No.5321 of 2016

Application is allowed. Reply filed on behalf of respondent

No.2 is taken on record.

CRM-M-3616 of 2014

Petitioner seeks quashing of FIR No.68 dated 28.6.2013 under Section 420 IPC registered at Police Station B -Division, Amritsar City, District Amritsar (Annexure P1) along with all the consequential proceedings.

Brief facts of the case which are necessary for disposal of the case are that Karnail Singh – respondent No.2 had lodged a complaint with Police Station B -Division, Amritsar City, wherein he

stated that his son Lovepreet is living in Italy. Gurpreet Singh accused- petitioner herein met him there (in Italy) and promised him . that he will get Permanent residence of Poland for him. On pretext of getting Permanent residence Lovepreet was taken to Poland. There Lovepreet handed over 10,000/- Euro to accused. Thereafter, accused left him in the hotel room and slipped away. Thereafter, he did not return. He also took away some documents belonging to Lovepreet from his luggage. In this regard, Lovepreet filed a complaint before the police authorities in Warsaw Poland. The accused ran away and came to India. Thereafter, on 19.4.2013, the complainant went to meet him. There the accused threatened that he can get anything done against him through the police. On the basis of the said allegations, FIR under Section 420 IPC was registered.

As per reply of the State, now challan has been presented in Court under Section 420 IPC.

The petitioner in the present petition claims that no part of the crime was committed in India and that under Section 188 Cr.P.C., the offences could not be tried except with the prior sanction of the Central Government.

On the other hand, the State has taken a stand that the part of the crime was committed in India. It is stated that the money was sent from India to Lovepreet. Therefore, Indian Courts have got the jurisdiction.

I have heard learned counsel for the parties and have also carefully gone through the file.

Section 420 of the IPC is reproduced as under:-

420. Cheating and dishonestly inducing delivery of property.

Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

The procedure for the same is provided under Section 188

Cr.P.C. which is reproduced below:-

188. Offence committed outside India .- When an offence is committed outside India -

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India,

he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found:

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government.

Admittedly, the accused and Lovepreet were in Italy and then in Poland, where the said cheating was done. Therefore, the crime of cheating was committed in Italy. Even Lovepreet had made a complaint to the police in Warsaw Poland and it might have been dealt with by the said police. It is not the stand of the State that the complainant had sent money directly to the accused from India so as to make out the ground of jurisdiction of Indian Courts. Rather, it is stated that the money was sent by the complainant to his son

Lovepreet. Regarding threat given by the accused in India, it is stated that in the complaint itself that the accused had threatened that 'they can get anything done through the police'. Said threat does not make out any offence punishable under Section 506 IPC and for this reason the accused was not challaned under Section 506 IPC. He has been challaned only under Section 420 IPC. In view of the provisions of Section 188 Cr.P.C., though the accused being Indian national, can be tried in India regarding the offences committed in foreign country but the same cannot be done without the prior sanction of the Central Government. However, there is no bar on the registration of the FIR.

In view of the matter, the report filed under Section 173 (2) Cr.P.C. before the concerned Court in pursuance to the FIR No.68 dated 28.6.2013 is set aside. State is granted liberty to obtain requisite sanction under Section 188 Cr.P.C. from the Central Government and thereafter, it can proceed with the investigation and take necessary action in accordance with law.

The petition is accordingly partly allowed.

19.02.2016

gk

(Kuldip Singh)
Judge