

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-4569 of 2012 (O&M)
Date of Decision: February 24, 2016

Rajinder Bhalla and another

...Petitioners

VERSUS

Subhash Gupta

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: None for petitioner No.1.

Mr.Vaibhav Narang, Advocate
for petitioner No.2.

Mr.Ashish Gupta, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of complaint No.64 dated 10.01.2009 under Sections 419, 420 and 406 IPC titled as 'Subhash Gupta vs. Rajinder Bhalla and others' pending in the Court of learned Judicial Magistrate Ist Class, Karnal and the summoning order dated 30.08.2010 passed by learned JMIC, Karnal along with all consequential proceedings arising therefrom.

Notice of motion was issued in this case and learned counsel for the respondent appeared and contested the petition.

First of all, at the time of arguments, learned counsel for

petitioner No.2 and respondent submitted that petitioner No.1 Rajinder Bhalla has died during the pendency of this case.

I have heard learned counsel for the parties and have gone through the record.

I have gone through the complaint Annxure P-1. In the whole complaint, even name of Seema Bhalla has not been mentioned. Even in the head-note, she has been described as wife of Rajinder Bhalla, accused No.1 and name has not been mentioned. The perusal of the averments in the complaint firstly show that it is mentioned in the complaint that in the first week of June 2000, all the accused persons had come in a car in factory and accused No.3 said that he has been sent by G.R.Kanwar Agent and accused No.1 has got 4-5 factories of manufacturing blankets at Amritsar. The averments in the complaint further reveal that accused No.1 has the transactions with the complainant and accused No.1 had purchased some articles amounting to ₹1,37,450/-. In the complaint, it is stated that complainant made telephonic calls at the house of accused No.1 and wife of accused No.1 had told that accused No.1 had gone to Hyderabad for bringing money and as and when he will come back, the payment of the complainant will be made. This averment, in no way, amounts to commission of any offence. In the complaint, nothing has been mentioned as to whether Seema Bhalla wife of Rajinder Bhalla was partner in the firm or has played any active role in cheating etc. Rather it looks a case of business transaction between Rajinder Bhalla accused and Subhash Gupta, complainant, for which accused

No.1 has not made the payment.

The other averment against Seema Bhalla in the complaint is that accused No.1 has stated that he will give the payment to complainant but despite repeated demand, accused No.1 and 2 had not made the payment. There is nothing more in the complaint qua Seema Bhalla petitioner No.2.

The perusal of the complaint itself shows that the complainant is not alleging any commission of offence against petitioner No.2 Seema Bhalla. Therefore, the filing of complaint as well as passing of the summoning order against Seema Bhalla, is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. The complaint No.64 dated 10.01.2009 titled as 'Subhash Gupta vs. Rajinder Bhalla and others', the summoning order dated 30.08.2010 passed by learned JMJC, Karnal along with all consequential proceedings arising therefrom are hereby quashed qua petitioner No.2.

February 24, 2016
Vgulati

(INDERJIT SINGH)
JUDGE