

CRM-M-44355-2015

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

CRM-M-44355-2015 (O&M)

Date of Decision: 02.06.2016

ROHIT RASTOGI

.....Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Mukesh Verma, Advocate,
for the petitioner.

Mr. Satish Saini, DAG, Haryana

Mr. Bhanu Pratap Singh, Advocate,
for Mr. Hitesh Puri, Advocate,
for the respondent No. 2

KULDIP SINGH, J (ORAL)

CRM-18482-2016

Prayer in this application filed under Section 482 Cr. P.C. is for placing on record the copy of challan as Annexure P-19 (colly).

Heard. Application allowed and the document (*Annexure P-19*) is taken on record.

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The prayer, in this present petition filed under Section 482 of Cr.P.C, is for quashing of FIR No. 106 dated 10.06.2015 (*Annexure P-15*) registered under Sections 406/420 of IPC at Police Station Division No. 5, Jalandhar alongwith all subsequent proceedings arising therefrom.

I have heard learned counsel for the parties.

Learned counsel for the petitioner has argued that the petitioner was holding *franchise* of the private respondents and he has been selling the

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goods and making the payments. Some of the invoices were also issued. According to the learned counsel for the petitioner, it is the complainant-private respondent who owes money to him for which he has filed the civil suit. It is further stated that the said dispute is purely of civil in nature.

On the other hand learned counsel for the respondent and the learned State has argued that it is not a case of the *franchise* but the accused was the agent of the complainant firm. The goods were supplied to him and after sale and after deducting the profit, the amount was to be remitted to them. Now, a sum of Rs. 17,70,222/- (approximately) is due. It is further contended that the goods for entrusted to the accused-petitioner with a direction to sell the same and after deducting the profit, return balance share to the complainant firm. The learned State counsel has further argued that the matter has been inquired by the Economic Defence Wing. After the enquiry, the FIR was registered and now the challan has been presented before the lower Court.

After considering the case of both the parties, I am of the view that it is the disputed case of facts whether it is a case of agency or franchise and whether it is a criminal breach of trust or simple case of embezzlement. Therefore, it is not a fit case where this Court should exercise the power of Section 482 Cr. P.C. to quash the FIR. Let the parties agitate the matter before the lower Court and take all the available pleas before the lower Court which shall consider the same and dispose the same on merits at the appropriate stage.

In view of the above the present petition is dismissed.

June 2, 2016

Suresh Kumar

**[KULDIP SINGH]
JUDGE**