

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

CRM M-5011 of 2015

Date of decision : 29.01.2016

Shiv Kumar

....Petitioner

V/s

State of Haryana & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ravinder Hooda, Advocate for the petitioner.

Mr. Arun Luthra, AAG Haryana.

Mr. Sandeep Singal, Advocate for respondent no. 2.

RAJAN GUPTA J.

Petitioner is aggrieved against order dated 13.08.2014 passed by Sessions Judge, Rohtak and order dated 10.01.2014 passed by Judicial Magistrate First Class, Rohtak whereby accused-respondent no. 2 has been discharged.

Learned counsel for the petitioner has relied upon judgment of this court reported as *R.K. Joshi & anr. vs. State of Haryana and anr.* 2007(2) RCR (Crl.) 47 to contend that accused had no right to cross examine the witnesses at the pre-charge stage.

Prayer has been opposed by learned counsel for respondent no. 2. He submits that orders suffer from no infirmity.

I have heard learned counsel for the parties.

Brief facts of the case is that petitioner filed a complaint against respondent no. 2 alleging that he works as a carpenter and on 10.06.2005, respondent no. 2 had employed him to do some

wooden work in his house. Respondent no. 2 agreed to pay ₹1,000/- as reward in addition to settled rates in case work was completed within five months to his satisfaction. Petitioner engaged six other carpenters to do the assigned work and completed the same within the time stipulated. After finishing the work, a dispute arose between them and respondent no. 2 did not pay the amount agreed upon which necessitated the petitioner to file a complaint before the Judicial Magistrate Ist Class, Rohtak. On the basis of evidence and material adduced by complainant before the Chief Judicial Magistrate, Hisar, it summoned respondent no. 2 under section 420 IPC vide order dated 30.10.2009. On consideration of pre-charge evidence of the complainant and one Vinod (PW2), trial court discharged the accused on the ground that dispute appears to be of civil in nature. Aggrieved, petitioner preferred revision before Sessions Judge, Rohtak which was dismissed vide order dated 13.08.2014. I find no infirmity with the orders passed. A perusal of the complaint shows that dispute actually appears to be civil in nature. There is nothing to show that evidence on record would in any eventuality lead to conviction of the accused. It is inexplicable why reliance has been placed on judgment in *R.K. Joshi's* case (supra) as same is not applicable to the facts of the instant case. There is, thus, no merit in the petition and the same is hereby dismissed.

January 29, 2016

Ajay

(RAJAN GUPTA)
JUDGE