

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-7086 of 2015

.....

Date of decision:13.5.2016

Pradeep Jain and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sumeet Goel, Advocate for the petitioners.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent No.1-State.

Mr. Bipan Ghai, Senior Advocate with Mr. Mandeep Kaushik,
Advocate for respondent No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.17 dated 21.1.2015 (Annexure-P.1) registered for the offences under Sections 420 and 120-B IPC at Police Station Zirakpur, District S.A.S. Nagger (Mohali) and all subsequent proceedings emanating therefrom including order dated 9.2.2015 (Annexure-P.22) passed by learned Sub Divisional Judicial Magistrate, Dera Bassi.

Notice of motion was issued in this case.

Ms. Shivali, learned Assistant Advocate General, Punjab has

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put in appearance on behalf of the respondent No.1-State and Mr. Bipan Ghai, Senior Advocate assisted by Mr. Mandeep Kaushik, Advocate has appeared for respondent No.2 and contested this petition.

I have heard learned counsel for the parties as well as learned Assistant Advocate General, Punjab and have gone through the record.

From the FIR on record, I find that it has been registered on the basis of written complaint in which it has been stated that Navneet Madhur came to the company of the complainant and lured him to buy a Machine Vermeer Navigator D24x40. After purchase of this machine for ₹32,49,000/-, he installed it for working but it did not work properly and he took up the matter with the Company and the Company's representatives advised him to purchase another machine in place of this machine and told him that the amount of this machine will be adjusted in the new machine. The complainant also states that he had to trust them and purchased the new machine. The Company adjusted the value of the old machine in new machine and charged another amount of ₹11,35,000/- from him, but the new machine also did not work well. He informed the Company about it, to which, at first, the Company did not listen to him and then sent their Engineers, who checked the machine and told him that the machine will be repaired sooner, but all this was waste of time and he started suffering financial losses day by day and till now. He had suffered a loss of about ₹1 Crore. The Company's representatives are not ready to listen to him and on the contrary, they are sending threats to him. In addition to paying the amount of the machine, he also paid them an amount of ₹3,19,300/- for the

purchase of spare parts, but they had not supplied him any spare part till date. In this way, the above persons had committed a fraud with him and they received a total sum of ₹43,84,000/- from him by telling lies to him to buy a new and better machine for the progress of his work.

After perusing the FIR, it is clear that the dispute between the parties is of civil nature. In the FIR there is no averment that from the very beginning there was intention of the accused to cheat the complainant. It is a business transaction. A machine had been sold to the complainant by the accused. When after some time it did not work properly, the complainant again approached the accused and after paying additional amount he has taken a new machine. As per the complainant that machine also did not work properly. Therefore, if at all any remedy lies that is a civil remedy by way of filing of suit etc. or approaching the Consumer Court etc. In no way, the offence of cheating is made out. Even otherwise, from the perusal of the FIR itself shows that the machine had been given which the complainant is asking for repair and the accused are delaying in the repairing work and there may be some dispute regarding the same for repairing the machine. Therefore, from the FIR itself, it is clear that the dispute is of civil nature and no offence is made out. The registration of the FIR and the subsequent proceedings arising from it are nothing but an abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed and FIR No.17 dated 21.1.2015 (Annexure-P.1) registered for the offences under Sections 420 and 120-B IPC at Police Station Zirakpur,

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District S.A.S. Nagar (Mohali) and all subsequent proceedings emanating therefrom including order dated 9.2.2015 (Annexure-P.22) passed by learned Sub Divisional Judicial Magistrate, Dera Bassi are quashed.

May 13, 2016.

(Inderjit Singh)
Judge

hsp