

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-7416 of 2016

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Date of decision:1.3.2016

Raj Kumar

...Petitioner

v.

Harcharan

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Arun Yadav, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal miscellaneous petition has been filed by petitioner under Section 482 Cr.P.C. for quashing of the impugned order dated 12.5.2015 (Annexure-P.2) passed by learned Judicial Magistrate Ist Class, Rewari, whereby the application filed under Section 156(3) Cr.P.C. for registration of FIR was declined and the impugned order dated 15.1.2016 (Annexure-P.4), whereby the revision petition filed by the petitioner was dismissed in private complaint case No.COMI/2005 dated 4.3.2015 titled as “Raj Kumar Vs. Har Charan” pending in the Court of Judicial Magistrate Ist Class, Rewari, and the application filed by the petitioner under Section 156(3) Cr.P.C. may be allowed, in the interest of justice.

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

From the record, I find that Raj Kumar-complainant filed complaint against Harcharan under Sections 419, 420, 465, 468 and 471 IPC. It is mainly stated in the complaint that it came into the knowledge of the complainant that Smt. Asharfi Devi-mother of Harcharan had filed a suit for maintenance against her husband and against her sons. The complainant had filed the copy of the aforesaid suit and related documents in the Court and when it came into the knowledge of Harcharan, then aforesaid Harcharan while creating pressure on her mother and thereafter in collusion had compromised the matter and got withdrawn the suit of maintenance by way of mutual compromise. After withdrawal of the above suit Harcharan had filed a false complaint against the complainant before the Judicial Magistrate with an allegation that the applicant had got a thumb impression of her mother on a blank paper whereas the complainant had no concern whatsoever with the filing of the aforesaid suit and other related proceedings. The complainant had to take bail from the concerned Court and the aforesaid matter is still sub-judice.

Keeping in view all the facts and circumstance, learned Collector, Rewari, vide his order dated 26.3.2014 had appointed the complainant as a Lambardar of Village Pithanwas, which was fallen vacant on the death of his father. Against the aforesaid order dated 26.3.2014, Harcharan had filed an appeal before the Commissioner, Gurgaon, and during the hearing aforesaid Harcharan had produced an OPD slip of Paras

Hospital in the name of complainant and when after knowing of the aforesaid fact, the complainant had enquired about the aforesaid document and came to know that aforesaid document is a forged one and was procured by playing fraud etc.

The learned Judicial Magistrate Ist Class, Rewari, on presentation of the complaint vide order dated 12.5.2015 stated that no case is made out to send the present complaint under Section 156(3) Cr.P.C. for registration of an FIR and the case was adjourned to 4.5.2015 for preliminary evidence of the complainant, which means that the Magistrate after perusing the complaint and after hearing the complainant took the cognizance himself. It is settled law that the Magistrate has the discretion to send the complaint to the Police under Section 156(3) Cr.P.C. or he can take the cognizance himself asking for preliminary evidence. At this stage, if the Magistrate takes cognizance himself, there is no need to give reasoning in detail etc. A perusal of the averments in the complaint also shows that it is not a case of such a nature that the investigation by the Police is necessary or the Police is to collect the documents etc. All this evidence, which is stated in the complaint, can be produced by the complainant himself before the Court. The revision petition has been filed by the present petitioner before the learned Sessions Judge, Rewari, who also vide order dated 15.1.2016 dismissed the revision petition by passing a detailed order and also by discussing the law. There is nothing on the record to show that the orders passed by the Courts below are illegal. Rather, the orders passed by the Courts below are correct as per law and, in no way, passing of these

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orders by the Courts below amount to miscarriage of justice.

Therefore, finding no merit in this petition, the same is dismissed.

March 1, 2016.

(Inderjit Singh)
Judge

hsp