

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i)

CRR No.3848 of 2015 (O&M)

Gurmail Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

(ii)

CRR No.566 of 2016 (O&M)

Balwinder Kaur

...Petitioner

VERSUS

State of Punjab

...Respondent

Date of Decision: May 05, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rakesh Gupta, Advocate
for the petitioners.

Mr.P.S.Grewal, Deputy Advocate General, Punjab
for the respondent-State.

Mr.Zorawar Singh, Advocate
for the complainant.

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected revisions as the point for determination in both the cases is the same.

CRR No.3848 of 2015 has been filed by petitioner Gurmail

Singh challenging the order dated 21.07.2015 passed by learned Judicial Magistrate Ist Class, Phillaur, vide which charge under Sections 420 and 406 IPC has been framed against him.

CRR No.566 of 2016 has been filed by petitioner Balwinder Kaur challenging the order dated 13.10.2015 passed by learned JMJC, Phillaur, vide which application under Section 319 Cr.P.C. filed by the complainant was allowed and Balwinder Kaur was summoned to face trial under Sections 420 and 406 IPC.

Notice of motion in both the revisions was issued. Learned State counsel as well as learned counsel for the complainant appeared and contested the petitions.

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

From the record, I find that the copy of the FIR has been placed on the record. The FIR was got registered by Sohan Singh on the basis of the complaint given to SSP (Rural) Jalandhar. As per the complaint, Gurmail Singh and Balwinder Kaur are the residents of village Uppal Khalsa, Tehsil Phillaur, District Jalandhar. The complainant is an NRI and is resident of Uppal Jagir, Tehsil Phillaur, District Jalandhar. The complainant gave money to Gurmail Singh and Balwinder Kaur, which carried interest of 2% per month. Malkit Singh Bassi got their term settled and Balwinder Kaur had said uncle ji become a partner in the business of property with them. However, he refused and asked them to pay the interest on the amount. In the FIR, details of amount of loan were given, which comes to total sum of ₹26

lacs as principal and ₹36,88,805/- as interest. Both Gurmail Singh and Balwinder Kaur went to complainant in England, where Gurmail Singh fell ill and 7870 pounds were spent on the hospitalization of Gurmail Singh and payment of that bill has been made by the complainant after reposing confidence and faith in Balwinder Kaur and Gurmail Singh. Both of them used to say that they will repay every penny. It is also in the complaint that a sum of ₹5 lacs was re-paid by them out of the amount of interest. As per the FIR, the complainant is asking for repaying the principal amount along with interest and 7870 pounds and the accused have been putting off the matter on one pretext or the other. It is also in the FIR that Gurmail Singh and Balwinder Kaur are not giving any way to the complainant and are not repaying the principal amount, interest and pound and they are harassing him by way of pre-meditated conspiracy. It is further in the FIR that they have started threatening the complainant when he ask for repayment of amount.

The perusal of the FIR itself shows that no offence is made out in the present case. It is a simple matter that a loan of ₹26 lacs has been given on interest and out of that, only ₹5 lacs has been repaid and Gurmail Singh and Balwinder Kaur are not repaying the remaining amount. The dispute between the parties is purely of civil nature. There is no allegation in the FIR that from the very beginning the intention of the accused was to cheat the complainant nor there is anything in the FIR that at that stage, they have malafide intention. It is simply written in the FIR that they are not repaying the loan amount.

From the FIR itself, no prima facie case is made out for framing the charge against Gurmail Singh nor any case is made out for summoning Balwinder Kaur under Section 319 Cr.P.C. in this case. Learned Magistrate has framed the charge against Gurmail Singh under Sections 420 and 406 IPC but in no way, giving of a loan to a person, amounts to entrustment punishable under Section 406 IPC nor in any way, it amounts to cheating.

Therefore, finding merit in both the revision petitions, the same are allowed. The impugned order dated 21.07.2015 framing the charge against petitioner Gurmail Singh and order dated 13.10.2015 summoning the petitioner Balwinder Kaur, passed by learned JMJC, Phillaur, are hereby set aside.

May 05, 2016
Vgulati

(INDERJIT SINGH)
JUDGE