IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-1574 of 2015(O&M)
Date of Decision: September 19, 2017

Inderpal Singh and another

...Petitioners

VERSUS

Kudrat Bhatia

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Veneet Sharma, Advocate
for the petitioners.

Mr.J.S.Thakur, Advocate for
Mr.A.S.Kalra, Advocate
for the respondent.

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INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondent Kudrat Bhatia for quashing the criminal complaint bearing case No. CIS No.Com.25694 of 2013 dated 21.11.2013 titled as 'Kudrat Bhatia vs. Inder Pal Singh and another' under Section 406, 420, 465, 467, 471, 506 and 34 IPC pertaining to Police Station Civil Lines, summoning order dated 25.09.2014 and all consequential proceeding arising therefrom.

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

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

From the record, I find that a complaint was filed by Ms.Kudrat Bhatia against Inder Pal Singh and Fateh Singh undre Section 406, 420, 465, 467, 468, 471, 506 and 34 IPC. Learned Magistrate, on the basis of preliminary evidence, summoned these accused. The brief facts of the case as noted down in the order dated 25.09.2014 passed by learned JMIC, Amritsar, are as under:-

> *"In brief, the case of the complainant is that complainant has appointed Shri Manjit Bhatia, her father, as legal lawful attorney to pursue the present complaint as he is well conversant with the facts of the present complaint. It is averred that the complainant and accused had started the business of restaurant under the name and style of Vellore's Gain Vishnav Punjabi Dhaba No.701, Anna Salai, Chennai 600006. Previously the complainant along with accused and one Shri Bhavesh Verma partner of the aforesaid business concern on the basis of partnership deed dated 03.06.2002, but subsequently Bhavesh Verma retired from the business concerned w.e.f.05.09.2005 and three partners namely complainant, as well as accused remained the partner of the aforesaid business concern and a deed of reconstitution of partnership was executed on 30.04.2006 in this regard. Memorandum of undertaking and compromise was also acted upon in between the complainant and both the accused on 30.04.2006.*
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> *It is averred that complainant was a sleeping partner of the aforesaid business concern but the accused time and again attempt to cheat fraud the complainant. Previously, the accused have also prepared various forged and fabricated documents and have wrongly tried to show that business concern is running into losses and consequently, the complainant was constraint to approach the Court of law, whom, had directed for registration of criminal case in the shape of FIR against the accused. Resultantly, the accused tendered apology to the complainant and the complainant forgave them and had entered into the agreement with the accused as per which the accused were required to give sum of ₹60,000/- per month minimum share of profit along with increase at the rate of 10% share of profit after every span of 24 months to the complainant. Bu again both the accused prepared forged and fabricated documents in the shape of various accounts. They have wrongly tried to show that joint venture business is running into losses. Accused also committed tampering by playing an act of fraud and cheating and cause damage and losses to the standing capital of the complainant in the joint business concern. The accused also*

> *wrongly shown decrease in the capital of the complainant by showing that they were making the payment to the complainant from her capital only whereas the payment actually was of share from the profits and was never from the capital of the accused to pay the aforesaid increased amount, the for accused have threaten owned to the complainant and her father that they will suffer dire consequences. It is further stated by the complainant that class at the accused by acting fraudulently and with an and motive to cheat the complainant had also prepared outlets of the aforesaid vellore's Gain Vaishnav Punjabi Dhaba and they after preparing the products of Vellore's Gain Vaishnav Punjabi Dhaba have been selling such items in the outlets only and are not showing income of the aforesaid outlet in the income of joint venture and are causing wrongful loss to the complainant wrongful again to them. Subsequently, served legal notice dated 07.03.2013 through RC/AD upon the accused to which the accused sent a false and frivolous reply dated 11.10.2013. Ultimately, the complainant came to know the accused persons have totally committed fabricated and forgery in the record of joint venture business with the sole motive to cause loss to the complainant. The complainant has made timely request to the accused but at no avail. Rather the accused persons had started extending threats of life to the complainant and her father. The complainant has also reported the matter to the police to the police official have not taking any action against them for offence committed by accused to the complainant. Hence, the present complaint."*

The complainant examined CW-1 Manjit Singh and herself as CW-2.

I have gone through the complaint, which is placed on record. The perusal of the complaint nowhere shows the commission of cognizable offence. As per the complaint, the complainant was the partner with the accused and they were running a *dhaba* in Chennai. As per the allegations of the complainant, a false account has been created by the accused and have shown the business concern running into losses. No specific document or record has been mentioned, which has been forged. Only general averments have been stated. Similarly, the case of the complainant is that accused agreed to pay ₹60,000/- per month as minimum share of profit along with increase at the rate of 10% share of profit after every span of 24 months. Now, they have paid money from the capital of the business to her.

The averments of the complaint shows that dispute between the parties is of civil nature i.e. regarding rendition of accounts. Otherwise also, business is running in Chennai and, whatever account, is maintained at Chennai but the complaint has been filed at Amritsar.

From the perusal of the complaint itself, it is clear that no cognizable offence is made out against the accused and this complaint has been filed only to harass the accused-petitioners. The filing of the complaint is nothing but abuse of process of law.

Therefore, finding merit in the present petition, the same is allowed. The criminal complaint bearing case No. CIS No.Com.25694 of 2013 dated 21.11.2013 titled as 'Kudrat Bhatia vs. Inder Pal Singh and another' under Section 406, 420, 465, 467, 471, 506 and 34 IPC, summoning order dated 25.09.2014 and all subsequent proceedings arising therefrom, are hereby quashed.

September 19, 2017 **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **No**