

In the High Court of Punjab and Haryana at Chandigarh

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Cr. Misc. No.M-17528 of 2016

.....

Date of decision:11.12.2017

Ajay

.....Petitioner

v.

State of Haryana and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. J.S. Hooda, Advocate for the petitioner.

Mr. Brijesh Sharma, Assistant Advocate General, Haryana for
the respondent-State.

Mr. Rajpal Singh, Advocate for Mr. Johan Kumar, Advocate
for respondent No.3.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying
for quashing of FIR No.353 dated 2.7.2014 registered for the offences under
Sections 406, 420, 467, 471, 506 and 120-B IPC at Police Station City
Palwal, District Palwal and all subsequent proceedings arising therefrom,
qua the petitioner, on account of being no *prima facie* case made out against
the petitioner.

Notice of motion was issued in this case.

Mr. Brijesh Sharma, learned Assistant Advocate General,
Haryana has put in appearance on behalf of the respondent-State and Mr.
Rajpal Singh, learned Advocate appearing for Mr. Johan Kumar, Advocate
has appeared for respondent No.3 and have contested this petition.

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

First of all, the challan has already been presented in this case, but the charges have not been framed yet. The FIR cannot be quashed by saying that no *prima facie* case is made out against the petitioner. It is the prerogative of the trial Court to first go through the evidence and find out whether from the evidence collected during the investigation any *prima facie* case is made out regarding the offences. Then the charges are framed accordingly, otherwise the accused are discharged.

Learned counsel for the petitioner argued that the FIR is liable to be quashed in this case.

As per the FIR, there are allegations that the complainant and accused No.3-Pawan Malik used to work together at Toll Tax Kapasheda, Delhi-Gurgaon Border and the wives of accused No.1 and accused No.3 hail from same village. As per the allegations, accused No.3-Pawan Malik got acquainted with accused No.1 and 2 in the month of April 2010 and said that accused No.1 need an amount of ₹8,50,000/- for raising construction of house and marrying his daughter. As per the allegations in the FIR, accused No.1, namely, Prem Singh issued cheque bearing No.861485 dated 10.1.2011 for ₹5 Lakhs and handed over the same to the complainant from his Bank account No.5467314. The cheque on presentation to the bank was dishonoured and a complaint was filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act'). Then the complainant came to know that this cheque belongs to accused No.2-Ajay,

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who is son of Prem Singh-accused No.1 and accused No.1 in connivance with accused No.2 signed on the cheque book of Ajay and from the relating bank account belonged to the present petitioner Ajay. Accused No.1-Prem Singh, who is father of accused No.2-Ajay, has no account in the Bank. The challan is stated to have been presented for the offence under Section 120-B IPC also.

At this stage, from the record, I find that, in no way, it can be held that presentation of challan against the present petitioner is abuse of the process of law. Neither it can be held that there are no allegations against the present petitioner nor it can be held that the filing of the FIR against the present petitioner amounts to misuse of the process of law.

Therefore, from the above, I do not find any ground to quash the FIR. Finding no merit in this petition, the same is dismissed.

However, the observations made herein shall not, in any manner, be construed as an expression of opinion on the merits of the case and the learned trial Court shall consider the evidence and material as produced before it.

December 11, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No