

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

Crl. Misc. No. M-18875 of 2014 (O&M)

Date of Decision: January 24, 2017

Surjit Singh

.....PETITIONER(s).

VERSUS

Swaran Singh

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.S. Bajaj, Advocate
for the petitioner (s).

Mr. Sunil Agnihotri, Advocate
for the respondent.

SURINDER GUPTA, J.

This is petition seeking quashing of complaint filed by respondent for the offences punishable under Sections 420 and 406 of Indian Penal Code (for short-IPC).

The case of the complainant, in brief, is that petitioner Surjit Singh approached him with offer to go to Canada suggesting that some person known to him has three visa to go to Canada and he (respondent Swaran Singh) is also going to Canada on one of the visa. He asked the respondent-complainant to arrange ₹10 lacs out of which ₹2 lacs were paid on 06.12.2010 and ₹4 lacs on 09.12.2010. The petitioner supplied visa to the complainant which was submitted to Immigration Authority on 11.12.2010 along with passport for clearance but the same was found forged and an FIR bearing No.663 dated 12.12.2010 was registered at Police Station IGI Airport, New Delhi for the offences punishable under Sections 420, 468, 471 IPC and 12 of Passport Act, where the complainant had undergone sentence. The complainant alleged that he was cheated by the

petitioner who had taken ₹6 lacs from him and supplied him fake visa.

Learned counsel for the petitioner has argued that occurrence is of 2010 and the complaint was filed on 06.04.2013. The petitioner himself was a victim in this case and was cheated by one Money Boparai and his mother Ranbir Kaur @ Harjit Kaur, who had taken ₹10 lacs from the petitioner for sending him to Canada and provided him visa which on arrival at airport, was found fake. An FIR was registered against him at IGI Airport New Delhi bearing No.665 dated 12.10.2010 for the offences punishable under Sections 420, 468, 471, 120-B IPC and 12 of Passport Act. Similar FIR was registered against respondent-complainant and two other persons in which they all were convicted on their plea of confession and were granted benefit of sentence they had already undergone. Respondent-complainant remained silent for more than three years after the incident and his allegations are baseless and absurd. In case petitioner had supplied fake visa to respondent, he would not have travelled with him on the same fake visa simply to get arrested by the police at the airport.

Learned counsel for respondent-complainant submits that respondent-complainant had dealt with petitioner only and paid ₹6 lacs to him. It was the petitioner, who gave him fake visa. Complainant is not knowing any travel agent and all the allegations were levelled against the petitioner in person, as such, a prima facie case is made out against him and there is no reason for quashing the complaint.

On giving a careful thought to the respective contention of learned counsel for the parties, I find that this petition has merits for the reasons as follows:

for a period of about two and half years of incident when he filed this complaint;

(ii) for supplying fake visa to travel to Canada, an FIR had already been got registered against Money Boparai and his mother on the complaint of petitioner. FIR by the petitioner against Money Boparai was got registered on 21.01.2011 i.e. immediately after the incident and the matter is stated to be under investigation of the police;

(iii) it is not believable that petitioner will supply fake visa to the respondent and will himself accompany him to travel to Canada on the similar fake visa to be get arrested at the Airport along with respondent-complainant and other persons. It is admitted that petitioner and respondent were arrested together by the Airport Police and both confessed their offence before the concerned Magistrate, who gave them benefit under plea bargain and released them by awarding sentence for the period already undergone by them. In case, the petitioner had prepared or supplied fake visa to the complainant, he must have taken caution to avoid going to the Airport for travelling on that fake visa.

Keeping in view all these facts, I am of the considered opinion that complaint filed by the complainant is abuse of the process of law and Court. Exercising powers under Section 482 Code of Criminal Procedure, the complaint filed by the respondent-complainant along with summoning order and further proceedings taken in the complaint, are quashed.

January 24, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No