IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2028 of 2017
Date of decision: May 04, 2017

Satpal Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Inderjeet Singh, Advocate for the petitioner.

Mr. Chetan Sharma, AAG Haryana.

Mr. Sandeep Kotla, Advocate for the complainant.

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A.B. CHAUDHARI, J

By the present petition, the petitioner seeks quashing of FIR No.122 dated 29.02.2016, under Sections 406, 420, 506 of Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Model Town, Panipat.

In support of the petition, learned counsel for the petitioner has taken me through the entire FIR lodged by the respondent. According to learned counsel for the petitioner, reading of FIR itself shows that the dispute between the parties is purely of civil nature and arising out of business transactions between the parties. Learned counsel then contended that reading of the FIR at its face value itself shows that the complainant had sold diesel on credit to the petitioner from time to time and now is making money claim for the price of the diesel sold to the petitioner. He also invited my attention that there is an agreement about charge 18% interest per annum on the outstanding amount which has also been stated in the FIR and that assurance was given by the petitioner to him to make payment. He, therefore, submitted that the complainant had a clear intention to make recovery through the criminal justice system. He, therefore, submits that the FIR needs to be quashed. He relied on the decision of Supreme Court in the case of **State of Gujarat versus Jaswantlal Nathalal**, 1968 AIR (SC) 700.

Per contra, learned counsel for the complainant as well as learned State counsel who appeared before this court, contended by referring to the reply filed by the complainant that the matter is not that simple as said to be made out by the learned counsel for the petitioner. They submitted that the petitioner is an influential person having business in all India and had manufactured and fabricated certain accounts, which has been investigated and now in the Court, additional charge under Sections 468, 471, 120 IPC is also liable to be framed on the basis of material in the challan. Not only that, the complainant as well as prosecution has still right to file additional evidence, if it is not part of the challan. Learned counsel for the complainant invited my attention to his reply in detail, which I have gone through. Learned State counsel also prayed for dismissal of the petition as the challan has been filed and he submitted that at any rate, the petitioner is entitled to apply for discharge and that is the alternate remedy available to him.

I have gone through the learned counsel for the rival parties at length. I have also perused the judgment shown to me in **State of Gujarat's case (supra)**. Whether dispute in question is of civil nature or not is a matter to be decided on facts of each case. In the present case, it is seen that there are specific allegations against the petitioner that the petitioner with a deliberate intention to cheat the complainant went on purchasing diesel but allowed the amount to stagger upto 27,31,242/- which has not been paid. According to the complainant, petitioner had deliberate intention and *mens re* to deceive the complainant. As a matter of fact by purchasing diesel after winning the confidence of the complainant for a few years, suddenly the petitioner refused to make payment and when the police made investigation, he produced forged documents. The material in the FIR thus, shows that the complainant was deceived by the petitioner and thus, there is ailment of criminality involved. Apart from that, I quote Paragraphs 3, 5, 6 and 9 of the reply of the complainant, which read thus:-

> *"3. That the petitioner has not approached this Hon'ble Court with clean hands as he has prepared forged the profit and loss account of his company from his company from his chartered accountant and placed submitted the same with the investigating agency and it is highly improbable that the company whose turnover of Rs.3,78,06,138/- in the year 2015 and having net profit of only Rs.96,568.89. The petitioner has forged the accounts statement.*
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> *xxxx*
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> *5. That the complainant had also submitted the entire*

bill with date, slip number, vehicle number and the quantity of diesel sold to the petitioner company preceding from 01.01.2015 to 15.01.2015 and 16.01.2015 to 31.01.2015 at page No.226 to 239 and the consolidated bill is duly reflected at page No.232 and 239, just to summarize the sale and the payment received through bank the petitioner has prepared an account statement from 31.12.2012 to 31.03.2016 at pages 248 uptill 252 duly reflects the invoice number, dates and the date of payment and the amount received by the complainant company through HDFC bank have been duly reflected and all the payments and receipts are in black and white which was not even disputed by the petitioner and as per the statement of account prepared by the complainant, the total sale deed is of Rs.3,41,99,478/- and the payment received by the complainant company was Rs.3,14,68,506/- and the balance amount remains due towards the petitioner is Rs.3,41,99,478 – 3,14,65,506 = Rs.27,31,242/-. Hence the above said statement of accounts which was not disputed by the petitioner the total amount of Rs.27,31,242/- remained due towards the petitioner and all the bills, receipts have been duly entered in the bank record also and the petitioner cannot run from his liability which is due towards the complainant company.

6. That the petitioner wants to take the courts as a ride and the judicial process is being misused by submitted false account statements, balance sheet of the company in conclusion with his chartered accountant and using the same against the complainant and the same will be clarify by the complainant in this reply to show how the petitioner is playing hide and seek with the judicial system and the answering complainant as well.

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9. That not even this the petitioner disputed the amount of Rs.27,31,242/- due towards the complainant, although he has disputed that no diesel was purchased from the complainant after March, 2016 whereas the receipts which was duly signed by the petitioner and the bills duly reflects the sale of diesel even otherwise the truck with registration number duly reflects in the receipt also and also shown in the entry register of the refinery from where the said truck was started and the billty of the goods reflects the purchase of diesel by the petitioner company, as stated above, the entire transaction between the petitioner as well as the complainant company is in black and white, no cash transaction have been made from the year 2013 uptill 2016, hence the forgery itself reflected from the statement of account of the bank and the balance sheet which are duly part with the challan itself."

Taking into consideration the above averments in the reply filed by the complainant and the element of *mens re*, prima-facie, I find that the FIR in question as well as challan, cannot be quashed as prayed for by the petitioner. The judgment cited by the learned counsel for the petitioner has no application in the present case.

In that view of the matter, present petition stands dismissed.

(A.B. CHAUDHARI)
JUDGE

May 04, 2017
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No