

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

**CRM No.M-27691 of 2017(O&M)
Date of Decision: August 30, 2017**

Surinder Kumar Bansal

...Petitioner

VERSUS

Ashok Kumar and others

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashok Paul Batra, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against Ashok Kumar and other respondents for setting aside the order dated 18.09.2014 passed by learned Judicial Magistrate Ist Class, Panchkula, vide which accused-respondents No.2 to 7 were not summoned and also not summoning accused-respondent No.1 for the offence under Sections 161, 165,172, 182, 191, 192, 195-A, 341,350, 383, 385, 406, 415 and 420 IPC and also for setting aside the judgment dated 26.05.2017 passed by learned Addl. Sessions Judge, Panchkula, vide which the revision petition filed by the petitioner was dismissed.

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

From the record, I find that a complaint was filed by

complainant Surinder Kumar Bansal against Ashok Kumar, Sushma Goyal, Sidharth Goyal, Vipin Kumar, Priyanka Bansal, Malkeet Singh, SHO and Constable Sanjeev Kumar under Sections 161, 165, 172, 182, 191, 192, 195-A, 341, 350, 383, 385, 406, 415, 420, 506 read with Section 120-B IPC. The brief averments of the complaint as noted down by learned JMJC, Panchkula, are as under:-

“Brief facts of the present complaint are that complainant is a property dealer and is residing at Panchkula for the last 10 years. Accused No. 1 is son of parental aunt of complainant. On 30.06.2012 accused No. 1 showed interest in some property in periphery of Panchkula. Among the many choices, accused No.1 purchased a property located at Zirakpur with name Maya Garden, at the rate of Rs.2623 per square yard, two flats were booked and an amount of Rs. 9,06,508/- was given as earnest money, in which complainant has accompanied the accused No.1. Complainant further submitted that the said properties were purchased for the purpose of re-sale. As the property market has gone into recession, the accused No. 1 was not able to sell the mentioned properties. Accused No.1 started blaming complainant, complaining about the rate of said flats was Rs. 2400/- per square feet and further stated that due to this accused has suffered a loss. Due to aforesaid reason, accused started having a grudge against the complainant and also started defaming the complainant among the relatives, stating that complainant had stiffened his money by inducing him to purchase the said property. Complainant further submitted that accused No. 1 also tried to involve him by cooking a conceited story to extort money stating that the accused had given a false complaint to the Senior Superintendent of Police, Faridkot whereas neither the accused No. 1 is resident of Faridkot nor any of the transaction took place at Faridkot. As the accused No. 1 is having contacts with Police Officials at Faridkot. In that complaint, it was claimed that complainant had called accused No. 1 Ashok for purchasing said property at Taneja Restaurant Jaiton Mandi Punjab and he has taken a sum of Rs. 12,57,000/- for the same, however a receipt of Rs. 9,06,508/- was handed over to the accused No.1. On this complaint, the police of Faridkot started summoning complainant to Faridkot and threatening him either to make a payment of Rs. 12,57,000/-, failing which they will involve him in some other case. On which, complainant was not having any other option but to file a complaint against Faridkot Police with Punjab State Human Right Commission, Chandigarh. Upon which accused No. 1 withdrew the said complaint citing personal

reasons. Complainant further stated that accused no.1 in connivance with other accused persons hatched a conspiracy to involve complainant in some false case, hence he registered a FIR at Bhatinda in which he alleged that he had paid an amount of Rs. 13 Lakhs to complainant on 10.07.2011 at Bhatinda for booking of flats at Maya Garden. However, there was a serious contradiction between version of both FIR and complaint at Faridkot regarding the amount as in the Fardikot he had claimed regarding the cheating of Rs. 5,00,000/- whereas in FIR the amount was Rs.3,93,492/-. The accused No. 4 Vipin Kumar and No. 5 Priyanka Bansal was also involved in the conspiracy as they had supported the false version of the complainant in the said complaint. It is further submitted that on 02.09.2012 two officials namely SHO Malkiet Singh and C Sanjeev Kumar i.e. accused No. 6 and 7 in instant complaint reached the home of complaint and had misbehaved with family members of the complainant and claimed that they will release complainant only when an amount of Rs. 7,00,000/- is given to them, out of the said amount Rs. 2,00,000/- was supposed to be given to the said officials. Among the officials, one C Sanjeev self claimed himself as a national boxing champion said that if the amount is not given to them, he will break the nose of the complainant. Thereafter, complainant taken to Sector 20, Police Station where accused No. 1, 6 and 7 were given Rs. 4,50,000/-. Afterwards, complainant had shown them all the documents relating to the earlier complaint and also statement of accused was also shown to accused No. 6 and 7 but said accused were under the influence of accused No. 1 did not accede to the legal demand of the complainant and kept on pressurizing him for payment of Rs. 7 lakhs and demanded a sum of Rs. 2,50,000/-. As the complainant at that point of time was not having Rs. 2,50,000/-, so accused No. 6 and 7 arrested the complainant and took him to Bathinda by handcuffing him. The photographs of same was taken by accused No. 2 at Bathinda for blackmailing the complainant for the payment. Accused no.2 also stated that she will show release the snaps on the internet and will damage the reputation of the complainant. However due the timely intervention of brother of complainant and other persons, a payment of Rs. 2,00,000/- was arranged and was given to accused No. 7 (C Sanjeev Kumar). It is further submitted by the complainant that when he was in police custody he was forced to enter into a compromise according to which payment of Rs. 4,50,000/- was shown to have been returned by the complainant to the accused No. 1 and the FIR was supposed to be withdrawn. However , even after getting an amount of Rs. 6,50,000/- accused No. 1 and 2 were not convinced and they further demanded an amount of Rs. 50,000/- which was given by the complainant and his family to accused No.1 and 2 on 19.09.2012 on bhog of father of accused No.1. With these submissions, present complaint has been filed by the

complainant to summon the accused persons to face trial.”

From the record, first of all, I find that during the pendency of the revision petition against the summoning order, the complainant suffered statement on 10.03.2017 regarding giving up respondents No.6 and 7, therefore, the complaint will be treated as dismissed against respondents No.6 and 7 namely SHO Malkeet Singh and Constable Sanjeev Kumar and it will be treated “complainant wants no relief against these respondents No.6 and 7”. At the time of arguments, before this Court, learned counsel for the petitioner gave up accused-respondents No.6 and 7.

As regarding other accused-respondents namely Sushma Goyal, Sidharth Goyal, Vipin Kumar and Priyanka Bansal, from the perusal of the record and even the averments in the complaint, I do not find any ground to summon these accused under any offence. Further, in the order and judgment passed by the lower Courts, it is held that accused cannot be summoned under Sections 182, 191, 192 and 195-A IPC as Section 195 Cr.P.C. bars the filing of the complaint unless and until concerned party files the complaint regarding the same before the Court. Furthermore, offence under Sections 161 and 165 IPC already stand repealed.

The findings given by both the Courts below are correct, as per evidence and law. No illegality has been committed by the Courts below while passing the impugned order and judgment. Other allegations were against accused-respondents No.6 and 7 but they have been given up by the complainant. As already held, there is nothing to show any offence or criminal conspiracy by accused-respondents No.2 to 5 namely Sushma Goyal wife of Ashok Kumar, Sidharth Kumar son of Ashok Kumar, Vipin

Kumar and Priyankal Bansal.

Therefore, finding no merit in the present petition, the same is dismissed.

August 30, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No