

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-3242 of 2017
Date of decision : September 22, 2017

Sangeeta

....Petitioner

versus

State of Haryana and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. TS Sangha, Senior Advocate with
Mr. Narinder Singh, Advocate, for the petitioner

Mr. Deepak Sabharwal, Addl. AG, Haryana, for respondent
no. 1/State

Fateh Deep Singh, J. (Oral)

This is a petition under section 482 of the Code of Criminal Procedure preferred by accused-petitioners Sangita (also referred to as Sangeeta) wife of Suresh Kumar whereby she had made a prayer seeking quashment of FIR No. 1094 dated 14.10.2016 under sections 120-B, 406, 420 IPC registered with Police Station Karnal City (Annexure P/1) as well as report under section 173 Cr.P.C. (Annexure P/4.).

The precise grounds that have been canvassed by the petitioner are that her husband Suresh Kumar and his brother Naresh Kumar were

persons running company by the name and styled as Ram Dev International Ltd. in which the petitioner had no role and on the basis of false and frivolous and concocted allegations to enable complainant Satbir Mittal to recover the amount of the disputed money, the petitioner has been roped in and thus, prayed that she being house wife is unduly roped and continuation of the proceedings qua her were mere abuse of process of courts and hence the relief in question.

The State did not chose to file reply. The records of the challan were also called for.

Heard Mr. TS Sangha, Senior Advocate with Mr. Narinder Singh, Advocate, for the petitioner and Mr. Deepak Sabharwal, Addl. AG, Haryana, for respondent no. 1/State.

The brief allegations that remain unrebutted are that the company of the accused had purchased paddy from Anaj Mandi, Karnal for the purpose of custom milling and thus, it is alleged that with a malafide intention the Directors Naresh Kumar and Suresh Kumar and Sangeeta the present petitioner had duped the complainant of his valuable goods and money. The contentions raised by Mr. Sangha that the petitioner has no role to play in the accused company is certainly unfounded and untenable. The own documents Annexure P/2 and P/3 bear out indisputably that she happens to be a Director who has been inducted as Additional Director with effect from 9.10.2015 when the present occurrence has taken place from 14.10.2016. These documents being Company Master Data as well as State

Bank of India where the accused company has its account and reflects that the petitioner has been allotted DIN No. 07271306 and thus, the submissions of the State counsel to this effect could not be displaced by the counsel for the petitioner. Mr. Sangha though has sought to bear out that the petitioner is a lady and house wife and is not supposed to run the affairs of the company. To a specific query put as to how she happens to be Sleeping Director could not be answered by Mr. Sangha. It is the own case even during the course of arguments that the company of the accused had purchased paddy for custom milling from M/s Deep Chand Sunil Kumar, a firm of which Satbir Mittal is a partner. There is an amount of Rs 17,59,568/- due to the complainant for various purchases made by the accused from the complainant. More-so it was on the disclosure statement of the petitioner, the police on 15.10.2016 has got recovered crucial documents pertaining to the company and the transactions are matters of much significance. What role the petitioner has in the commission of offence is a matter subject to trial and evidence which is to be adduced therein and of course to what evidence has been collected in the report under section 173 Cr.P.C. Since the plain allegations are that the company through its directors has acted dishonestly in malafide manner and with dishonest intention to cheat the poor complainant had duped him of his valuable paddy. Thus, this Court in the exercise of powers under section 482 Cr.P.C. is not supposed to hold a roving inquiry. Any comments upon the evidence and merits would be contrary to the canons of the principles

laid down under section 482 Cr.P.C. This Court seeks support from **State of Haryana and ors vs Ch. Bhajan Lal Ors. 1991(1) R.C.R. (Criminal) 383** where the Hon'ble Supreme Court though not exhaustively but has underlined principles of law relating to the exercise of inherent powers under section 482 Cr.P.C. and the primary aim and object of exercise of such powers is to prevent abuse of process of the Court to secure ends of justice. The same is reproduced below:-

- (1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;
- (2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;
- (4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no

prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

It could not be brought to the satisfaction of this Court upon appraising the materials that the allegations are bereft of truth and rather made maliciously so that the same could be thrown overboard on the mere unsubstantiated plea of malafides.

In the light of what has been detailed and discussed above, this Court is thus not inclined to show indulgence. The petition being hopelessly without merit is dismissed.

Records of the trial court be sent back immediately.

September 22, 2017
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No