

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

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CRM-M-33277-2017

Date of Decision: 11.10.2017.

Resham Singh

....Petitioner.

Versus

Sukhdev Kumar and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

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

Ramendra Jain, J.(Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing order dated 15.07.2017 of the trial Court discharging the respondents under Sections 419, 420, 452, 366, 467, 468, 469, 471, 325, 149, 120-B of the Indian Penal Code (for short, 'IPC') and Section 25/54/59 of the Arms Act.

Briefly stated, on 25.08.2010, the petitioner filed complaint under aforesaid sections against the respondents and slept over the matter for about five years. Thereafter, in 2015, he awakened out of a great slumber and get succeeded in getting the respondents summoned, vide order dated 02.12.2015 (Annexure-P2).

The respondents, being aggrieved, laid challenge to the said order in revision. The revisional Court, vide order dated 28.04.2017 (Annexure-P4), setting aside the summoning order Annexure-P2, being illegal and perverse, directed the trial Court to reconsider the matter. Consequently, the Magistrate reconsidered the matter and dismissed the complaint vide impugned order dated 15.07.2017 (Annexure-P6) thereby

discharging the respondents. A relevant portion of the impugned order is reproduced hereunder:-

“It is pertinent to mention here that the complainant has placed on judicial file an application dated 24.12.2005 which Ex. C2 moved before the Senior Superintendent of Police, Faridkot wherein he made allegations against the accused had in relation to above mentioned occurrence. However, it is improbable to believe that if complainant was in illegal confinement from 22.12.2005 for about 15 days, then how he wrote the application to SSP on 24.12.2005. Secondly, there is no medical evidence that intoxicating drugs were administered to the complainant and his brother. Neither any documentary evidence nor oral evidence has been led to corroborate the fact that the complainant and his brother were given intoxicant drugs. Thirdly, as per the version of complainant the alleged occurrence took place on 22.12.2015 and the present complaint was filed only on 25.08.2010, the delay of nearly five years has not been cogently and sufficiently proved. From the version of complainant himself it can be ascertained that the complainant started accusing the accused only after receiving a legal notice by Sukhdev Singh.

Further, from the perusal of Ex. C5, agreement to sell it is revealed that it is written by the deed writer Raj Kumar and entered in his register at Serial No.398 but it is not the case of the complainant that his signatures were obtained in register of the deed writer. Even the date of agreement was extended on 22.02.2006. There no proof or evidence of impersonation by the accused on the file led by the complainant. Furthermore, any Handwriting and Finger Print Expert has not been examined to prove the forgery as committed by the accused. The offences under ‘forgery’ has not been established against accused. First of all, the original document which is alleged to be forged has not been placed on record to constitute an offence of forgery. To this effect the court would like to place

reliance on case titled **Ajay Narayan Ram versus State of U.P. 2014(2)Criminal Court Cases111(Allahabad)**, in which the hon'ble Allahabad High Court held that unless and until original document is proved to be forged, Photostat copies cannot be said to be forged.”

Furthermore, in para No.3 of the complaint, the complainant has alleged that on 25.07.2010, one Jeet Singh has moved an application before the Higher Officials against the accused but said Jeet Singh has not been examined by the complainant to corroborate his version nor it has been clarified that whether he is alive or dead. In addition to it; the offence against the accused under Section 25 of the Arms Act, 1954 has not been cogently established against the accused. It has neither been established that the 'arms' in possession of accused were without licence and even if arms were licensed one the same has been used. There are mere assertions and statements without prima facie establishing the accusations levelled against the accused. Thus, the complainant has failed to establish sufficient ground for summoning the accused under section 419, 420, 452, 366, 467, 468, 469, 471, 325 of IPC read with Section 149 of IPC, Section 120-B of IPC and Section 25 of the Arms act, 1954. As such, the complaint in hand is hereby dismissed without having any merit. The accused already summoned and appearing in this case, namely, Sukhdev Kumar, Ashok Kumar @ Shoki, Davinder Kumar @ Davinder Singh, Malkit Singh, Baldev Singh, Pawan Kumar and Raj Kumar stand discharged.”

Learned counsel for the petitioner inter-alia contends that the impugned order of dismissal of the complaint of the petitioner is illegal and perverse, therefore, the same be set aside.

After giving my thoughtful consideration to the submission made by learned counsel for the petitioner, I find the present petition

completely devoid of merit, rather in the considered opinion of this Court the same is an abuse of the process of law for the reasons to follow:-

- (i) The impugned complaint was filed by the complainant after receipt of notice of a civil suit for specific performance filed against him by respondent No.1;
- (ii) The petitioner on civil side, has already lost the battle. His first appeal too has also been dismissed by the appellate Court, therefore, it is evident that the petitioner, to wriggle out from his civil liability, had filed the impugned complaint to cheat and commit fraud with the respondents levelling false and frivolous allegations against them; and
- (iii) learned counsel could not point out even a single error in the order impugned by the petitioner.

In view of the above discussion, the present petition is dismissed.

(RAMENDRA JAIN)
JUDGE

11.10.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No