

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

CRM No.M-39363 of 2015 (O&M)

Date of Decision: May 24, 2017

Maya Bansal and others

...Petitioners

VERSUS

Niti Kansal

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Madan Gupta, Advocate,
for the petitioners.

Mr.Tejinder Pal Singh, Advocate
for the respondent.

INDERJIT SINGH, J.

The petitioners have filed this petition under Section 482 Cr.P.C. against respondent Niti Kansal for quashing the criminal complaint No.110/02.12.2011 titled as 'Niti Kansal vs. Maya Bansal and others' filed under Sections 420, 422, 467, 468 and 406 read with Section 120-B IPC, registered at Police Station Ambala City, summoning order dated 16.10.2015 along with all other proceedings initiated on the basis of the complaint.

Notice of motion was issued. Learned counsel for respondent appeared and contested the petition.

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

From the record, I find that the complaint was filed by Niti Kansal against Maya Bansal, Rajesh Bansal, Anuj Bansal and Anish Bansal under Sections 420, 422, 467, 468 and 406 read with Section 120-B IPC. As per averments in the complaint, complainant has unit to manufacture utensils of plastic and she wants to start new business to manufacture non woven bag. Accused persons used to supply China made machines for manufacture of non woven bag, so they approached the complainant and promised to supply the machine for ₹11,90,000/- within 1½ months after receiving ₹10 lakhs from the complainant. As per the allegations, amount of ₹10,80,000/- was paid through cheques and RTGS. After the payment of ₹10,80,000/- to the accused persons, the complainant requested them to hand over the XY-600 Non Woven Bag machine but they put up the matter of delivering said machine. The complainant as well as her family members smelled out that the accused persons with the criminal conspiracy cheated the complainant to the tune of ₹10,80,000/- and have made wrongful gain. It is further stated that accused persons have also committed offence under Section 406 IPC.

During the pendency of this petition, on 17.04.2017, learned counsel for the petitioners stated that respondent has not paid remaining amount and even if she makes the payment of remaining amount, the petitioners are ready to supply the machines as per document Annexure P-4 and counsel for the respondent prayed for time to seek instructions in this regard. On the next date i.e. 24.04.2017, learned counsel for the respondent stated that respondent wants her money back and she is not interested to purchase the machine.

After going through the averments of the complaint, I find that

the dispute between the parties is of civil nature i.e. arising from the business transaction. The parties are firstly on dispute regarding the price of the machine. Learned counsel for the petitioners stated that as per Annexure P-4, the machine was to be sold and the terms and conditions have been mentioned in that annexure. The price of the machine is ₹13,21,000/-. Learned counsel for the petitioners also argued that petitioner Maya Bansal is the Proprietor and the business is looked after by Anuj Bansal petitioner No.3 but the entire family has been made accused in the present case. In fact, Rajesh Bansal and Anish Bansal have no concern with the business of M/s Subham International. Learned counsel for the petitioners next argued that the complainant neither provided IEC Code nor applied for sales tax number and petitioners made many requests through E-mails and requested to provide IEC code as required and also requested to pay the balance amount. Learned counsel for the petitioners also stated that the complainant purchased non woven material through different bills on credit and had not brought this fact to the notice of the trial Court.

From the perusal of the petition as well as the complaint, I find that the dispute between the parties is relating to business transaction and is of civil nature. In no way, it can be held that any offence is made out from the complaint. It has been brought to the notice of this Court, at the time of arguments, that till now, no civil suit has been filed for specific performance of the agreement or for recovery of amount etc. The reply by learned counsel for the respondent during the pendency of the proceedings for supplying of machine on the payment of remaining amount, also shows that the complainant is not interested in the machine and only wants the refund

of money, which also shows that the dispute is of civil nature.

In view of the above discussion, I find that filing of criminal complaint in the present case is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed.

Criminal complaint No.110/02.12.2011 titled as 'Niti Kansal vs. Maya Bansal and others' and summoning order dated 16.10.2015 passed by learned JMIC, Ambala, along with all the subsequent proceedings arising therefrom, are hereby quashed.

May 24, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No