

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

CRM-M-5185 of 2016 (O&M)

Date of decision: 15.05.2017

Ashu Thappar and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. K.S. Brar, Advocate for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. A.S. Brar, Advocate for respondent No.2.

Jitendra Chauhan, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of impugned FIR No.56 dated 09.06.2011, registered under Sections 406, 420, 467, 468, 471 and 120-B of the Indian Penal Code (for short 'IPC'), at Police Station Nathana, District Bathinda.

It is contended that the present FIR has been registered on the allegation of committing fraud with the public in respect of installation of mobile towers at different places. After registration of FIR No. 150 dated 18.06.2009, respondent No.2 made a disclosure statement before the Investigating Officer in above said FIR at

Ludhiana on 06.11.2009. The challan in above said FIR has been presented. However, respondent No.2 moved another complaint to the SSP, Bathinda to register an FIR against the petitioner with similar allegations whereby the present FIR has been registered. He further states that no person can be prosecuted twice for the same offence.

On the other hand, the learned State counsel as well as learned counsel for respondent No.2 oppose the prayer made in the present petition. The learned State counsel submits that departmental action has already been initiated against the erring official(s), namely ASI Paramjit Singh and ASI Amarjit Singh for delaying the investigation of the present FIR wherein ultimately, the challan was prepared on 11.01.2014. Thereafter, the petitioners and co-accused were summoned by the Investigating Officer under Section 160 Cr.P.C., however the petitioners/accused were not found present at their home and the challan was filed before the competent Court on 17.03.2016.

Heard.

There are specific allegations of fraud committed by the petitioners with respondent No.2 on the pretext of installing mobile towers. Respondent No.2 approached the petitioners and co-accused after seeing an advertisement in the newspaper. Thereafter, on 05.06.2009, accused Bikram and Amit Aggarwal came to see the site

and finalized two places. The accused demanded Rs.50,000/- as agreement fee for installing the tower which was given by respondent No.2 through cheques and the accused persons started demanding more money on one pretext or the other. The cheques given by accused were returned to respondent No.2 with the remarks 'account blocked'. In the manner, the petitioners along with co-accused played fraud with respondent No.2. Moreover, co-accused, Rakesh Arora is involved in as many as 21 cases of similar nature. Therefore, keeping in view the facts and circumstances of the case, no case for quashing the FIR is made out at this stage.

Dismissed.

15.05.2017
sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable:	Yes	No