

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.114

CRM-M-15736-2017 (O&M)

Date of decision : 26.11.2018

Kashmiri Lal

..... Petitioner

VERSUS

Sohan Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. L.S. Lakhanpal, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner has been summoned vide order dated 11.8.2016 passed by ACJM, Ambala, to stand trial for an offence under Section 420 IPC. Thus, the present petition has been filed for quashing of the complaint No.222/1 of 2014 titled as Sohan Singh Vs. Kashmiri Lal as well as summoning order dated 11.8.2016.

Learned counsel for the petitioner contends that earlier, the complainant-respondent No.1 had filed complaint with the police, whereupon, vide report dated 2.4.2014 (Annexure P5), the petitioner had been exonerated. Thereafter, the petitioner had submitted representation dated 15.5.2014 (Annexure P3) for taking legal action against the complainant-respondent No.1. Thereafter, complaint dated 10.6.2014 (Annexure P1) has been filed and the petitioner has been summoned illegally vide order dated 11.8.2016. Once the petitioner has been exonerated by the police, the filing of the criminal complaint is abuse of the process of law and it deserve to be quashed.

For quashing of a complaint and summoning order, it has to be shown that from a bare perusal of the complaint no offence is made out.

Having gone through the contents of the complaint, it cannot be said so

because the allegation against the petitioner is that gold jewellery handed over by the complainant-respondent No.1 for the purposes of re-modeling was replaced and some other material instead of gold was given. Thus, prima facie, offence under Section 420 IPC is made out.

It is, further contended that the filing of the aforementioned complaint is abuse of the process of law as the petitioner has earlier been exonerated by the police vide report (Annexure P5). I am afraid that this submission too cannot be accepted because the same is a matter of defence and has to be proved during the course of the trial. The submission of a police report in favour of the petitioner cannot lead to the conclusion that the filing of a complaint is abuse of the process of law.

The petition has no merit and is accordingly dismissed.

(SUDHIR MITTAL)
JUDGE

26.11.2018
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No