

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.22163-2011 (O&M)

Date of decision : 14.12.2018

Hardeep Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.J.S.Santwal, Advocate for the petitioner
Mr.Karanbir Singh, AAG Punjab
Mr.Lavish Rattan, Advocate for
Ms.Naiya Gill, Advocate for the respondent no.2

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (Oral)

This order will dispose of petition filed by the petitioners Hardeep Singh, Kuldeep Singh and Mehar Singh for quashing of FIR No.34 dated 8.4.2011 under Section 420 IPC registered at Bholath, District Kapurthala.

The facts of the case are that respondent no.2 Gurmej Singh lodged FIR on 8.4.2011, wherein he stated that on 21.5.2010, one Mehnga Singh son of Faqir Singh came along with Mehar Singh son of Kartar Singh, Hardeep Singh and Kuldip Singh to his house. All the three petitioners wanted to borrow money as they had to get the sale deed registered. It was assured that the money will be returned within one month at Bholath. They further prayed that if the money is not paid their Rs.29 lakhs as earnest

money will be forfeited. According to the complainant, he had withdrawn Rs.4 lakhs from his account in Gramin Bank Nadala on 21.2.2010 and paid Rs.3 lakh to the present petitioners. Then it is further stated that plot, which was to be purchased by the petitioners, was in possession of somebody else. Then Mehar Singh etc. deposited Rs.10 lakhs in the account of the complainant as earnest money. It is further alleged that the total price of 6 marla plot was Rs.39,90,000/- but the petitioners have shown the price of the land as Rs.21,55,000/- to avoid stamp duty. Complainant further states that when he demanded money, accused refused to return the same. Therefore, he has been cheated of Rs.3 lakhs.

Private respondent has not filed reply. However, reply on behalf of respondent no.1 is received.

I have heard learned counsel for the parties and have also carefully gone through the file.

Learned counsel for the petitioners has drawn the attention of this Court towards an earlier complaint dated 22.12.2010 filed by the complainant -respondent before DSP Bholath, wherein he has stated that accused petitioners had borrowed Rs.3 lakhs from him for the purpose of getting the sale deed executed. They had assured to return the same within one month but they resiled from the same. Complainant further alleged that as he was suspecting that the money will not be returned, he got the registration of sale deed stopped but then Mehnga Singh intervened and gave an assurance that money will be repaid and he should allow the sale deed to be registered. Therefore, he allowed the sale deed to be registered. Now, the money is not being returned.

Learned counsel for the petitioners has also referred to the

account statement of Mehar Singh and his wife (Annexure P1) which shows that on 9.6.2010, Rs.10 lakhs were transferred to the account of the complainant and the balance left in the account was Rs.8,14,317/-. He has also produced copy of the statement of account of Hardeep Singh petitioner (Annexure P2), which shows that on 9.6.2010, a sum of Rs.9,99,000/- was transferred to the account of the complainant, leaving the balance of Rs.2,05,236/-, which shows that the petitioners paid Rs.19,99,000/- to the complainant on 9.6.2010.

Leaving aside everything, allegations in the complaint shows that a loan of Rs.3 lakhs was advanced, which has not been repaid. It is purely a civil transaction. If the loan was advanced and not returned, Civil Suit for recovery lies. Filing of FIR is nothing but misuse of process of Court. Therefore, notwithstanding the fact that in this case, challan has been presented, charges have been framed, FIR in this case is liable to quashed being misuse of process.

As such, No.34 dated 8.4.2011 under Section 420 IPC registered at Bholath, District Kapurthala along with challan and consequential proceedings stands quashed.

Petition is accordingly allowed.

14.12.2018

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No