IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-23172-2013 (O&M)
Date of decision:05.12.2018

Devender Singh Rawat and others

.....Petitioners

versus

Khushbu Bhatia

....Respondent

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. R.S. Randhawa, Advocate
for the petitioners.

Mr. Amit Chaudhary, Advocate
for the respondent.

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Kuldip Singh, J. (Oral)

The petitioners have approached this Court under Section 482 Cr.P.C. for quashing of Criminal Complaint No.371/1 dated 15.03.2011, under Sections 406, 420, 466, 467 & 471 (Annexure P-1) and the summoning order dated 04.06.2013 (Annexure P-2), passed by learned Judicial Magistrate, First Class, Faridabad, vide which, the petitioners have been summoned to face trial under Sections 417, 465 IPC read with Section 34 IPC.

I have heard learned counsel for the parties and perused the file carefully.

Perusal of the complaint dated 15.03.2011(Annexure P-1) shows that according the the complainant, her father was in family terms with accused No.1 & 2 namely Naresh Kumar Bhatia and Ashok Gogia

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respectively and gave a cheque book to them for making payments. Father of the complainant was in need of a loan for renovation of H.No.755, Sector 22, Faridabad and for the treatment of the complainant, as she was pregnant at that time. Father of the complainant sought the help of accused Nos.1 & 2 who expressed inability to advance loan. However they named accused No.3 who could advance the loan. When accused No.3 refused to advance the loan without any collateral security in the form of property, then the complainant's father told the accused No.3 that he had a house No.755, Sector 22 at Faridabad in the name of the complainant. Accused No.3 asked that he requires surety to advance loan so that he can take the money back. It is stated that accused No.3 issued a cheque No.114334 for Rs.4,00,000/- in favour of the complainant. All the accused obtained signatures of the complainant on the blank paper against money transaction and on the blank receipt which they later on filled in. The loan was to be returned by 01.04.2011, but on 31.01.2011, the complainant received a notice from Mr. S.K. Bakshi, Advocate, which revealed that complainant had executed an agreement to sell the house No.755, Sector 22, Faridabad to accused No.3 for Rs.25,50,000/-, out of which, accused No.3 had paid Rs.6,00,000/- to the complainant. Copy of the agreement was also attached. The agreement to sell is prepared on blank papers on which signature of the complainant were obtained.

On the basis of preliminary evidence, the petitioners were summoned. It comes out from the complaint itself that when accused No.3 was asked to advance the loan, he refused to advance loan without any

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collateral security which means that accused No.3 wanted immovable property as collateral security. Thereafter, the complainant allegedly signed blank papers and receipt. The averment in the complaint shows that accused No.3 insisted on giving immovable property as collateral security. The complainant admitted that she had signed an agreement but claimed that it was blank when it was signed. Accused No.3 issued a notice dated 31.01.2011 (Annexure P-3) through the Mr. S.K. Bakshi, Advocate. He even visited the office of the Tehsildar on 19.06.2010 which was the date fixed for the sale. Not only this, a Civil Suit was also filed which was decreed by the trial Court.

However, learned counsel for the complainant submitted that the appeal has been allowed.

Needless to say that the other party has got right to file Regular Second Appeal. Therefore, the civil litigation is unlikely to be decided in near future. Since the complainant admitted her signatures and admitted in the complaint that accused No.3 insisted on giving immovable property as collateral security to advance the loan, therefore, it has to be presumed that property was given either as security or the agreement was executed. The present petition is nothing but misuse of process of Court. The respondent-complainant admittedly received the loan as stated in the complaint itself. In place of returning the money, she has filed Criminal complaint for adjusting the loan advanced to her father by using pressure tactics.

It being so, the complaint No.371/1 dated 15.03.2011 (Annexure P-1) is nothing but misuse of process of Court. Therefore, the Criminal

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complaint No.371/1 dated 15.03.2011 (Annexure P-1) along with summoning order dated 04.06.2013, passed by learned Judicial Magistrate, First Class, Faridabad (Annexure P-2) are hereby quashed.

Accordingly, the petition is allowed.

(KULDIP SINGH)
JUDGE

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Whether speaking/ reasoned: Yes
Whether Reportable: No

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