

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.No.M-21385 of 2018 (O&M)
Date of decision : 21.05.2018

Ashok Kumar and another

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Yashwant Singh Rathore, Advocate
for the petitioners.

RAJ SHEKHAR ATTRI, J.(Oral)

The petitioners have preferred the instant petition under Section 482 Cr.P.C. for quashing of FIR No.182 dated 03.07.2015, registered under Sections 406, 420 IPC at Police Station Nissing, District Karnal and all consequential proceedings arising out of the said FIR.

Briefly, it is a case of the prosecution that the Inspector, Food & Supply, Nissing, Karnal moved an application to Station House Officer, Police Station Nissing, Karnal wherein it is stated that M/s Goyal Rice Mills was entrusted with 64 wagons of rice but only 03 wagons were returned and 61 wagons were outstanding which comes to 270 quintal rice. The said firm has misappropriated 61 wagons i.e. 270 quintal of rice. On the basis of the aforesaid application, the FIR was registered. However, the petitioner issued cheque No.364575 dated 04.02.2016, for an amount of Rs.50,00,000/- to discharge his liability but the said cheque was dishonoured.

To substantiate this plea, learned counsel for the petitioner has

placed reliance upon the judgments of Hon'ble Supreme Court in Kailash Verma vs. Punjab State Civil Supplies, JT 2005 (2) SC 420 and Bal Kishan Das vs. P.C.Nayar AIR 1991 SC 1531.

On the other hand, learned State counsel has submitted that the petitioner has misappropriated the amount of 270 quintal of rice, therefore, he is liable for the offence.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

The Hon'ble Supreme Court in **State of Haryana and others versus Ch. Bhajan Lal Ors.** has made the following observations:-

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- 1. Whether the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- 2. Where the allegations in the First Information Report and other materials, if any, accompanying*

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the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.

- 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- 4. Whether, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.*
- 5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
- 7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the*

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accused and with a view to spite him due to
private and personal grudge.”

In the case in hand, the petitioner has misappropriated paddy
of 61 wagons, therefore, no ground to quash the FIR is made out.

Accordingly, the instant petition stands dismissed.

21.05.2018
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(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No