

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

CRM-M-27059-2018 (O&M)

Date of Decision:-3.7.2018

Hansveer Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jitender Chaudhary, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

The present petition has been filed by Hansveer Singh seeking quashing of FIR bearing No.46 dated 23.1.2015, under Section 406, 420, 506, 120-B IPC, Police Station Ballabgarh City, District Faridabad. registered against him.

The allegation, in nutshell, are that accused Hansveer Singh who is an Advocate in District Courts and is also into property dealing as well as into Chit Fund business along with his friend Jagbir Singh. It is alleged that accused Keshav, Satyender and Bhisam are his brothers who also assist him. The complainant alleged that he had given an amount of ₹27,08,700/- upon an assurance given to him that the same would be returned along with profit to the tune of ₹33,56,822/- before the marriage of his daughters. It is alleged that despite the fact that the complainant had demanded back his money in the year 2012, the accused did not return the amount and ultimately the marriage of his daughter was solemnized in July,

2014 for which he had to borrow money from one Ghanshyam Verma and Vinaypal Singh.

Learned counsel for the petitioner has submitted that as per receipt Ex.P-2, the alleged amount had been given to the petitioner by Kopal, Ekta and Smt. Kusum and not by complainant Rajbir Singh and that in these circumstances the complaint was not maintainable at the instance of complainant Rajbir Singh. The learned counsel in order to hammer-forth his aforesaid submission places reliance upon 2013(3) RCR (Criminal) 141 Harmela Ram Vs. State of Haryana.

I have heard the learned counsel for the petitioner and have also perused the FIR as well as the documents annexed with the petition.

A perusal of the FIR reveals that specific allegations have been leveled by the complainant to the effect that he was allured into parting with an amount of ₹27,08,700/- on a representation that the same would be returned with profits to the tune of ₹33,56,822/- but despite a substantial period having elapsed and despite several requests made by him, the same was not returned. It is well settled that once the contents of FIR disclose ingredients of an offence, the same cannot be quashed in exercise of its inherent powers.

Hon'ble the Supreme Court in State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335 enumerated the categories of cases where inherent powers under Section 482 Cr.P.C. could be exercised for quashing FIR as follows:

“(1) Where 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 the FIR 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) Where, the allegations in the FIR 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 FIR 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 accused and with a view to spite him due to private and personal grudge.”

It was further held therein as follows:

“103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

In another recent case Dineshbhai Chandubhai Patel Vs. State of Gujarat, (2018) 3 SCC 104 the Hon'ble Supreme Court held as follows:

“29. In order to examine as to whether the factual contents of the FIR disclose any prima facie cognizable offences or not, the High Court cannot act like an investigating agency and nor can exercise the powers like an appellate court. The question, in our opinion, was required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring no proof.

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31. In our considered opinion, once the court finds that the FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the investigating machinery to step in to initiate the probe to unearth the crime in accordance with the procedure prescribed in the Code.”

As regards the contention that the FIR had been lodged by Rajbir Singh whereas the amount in question had been given by one Kopal, Ekta and Smt. Kusum, I find that the said Kopal and Ekta are none else but

the daughters of the complainant Rajbir Singh and Kusum Lata is wife of Rajbir Singh. In these circumstances, the FIR lodged at the instance of the father Rajbir Singh who is father of Kopal and Ekta and husband of Smt. Kusum cannot be said to be not maintainable.

In view of the aforesaid discussion wherein I find that the FIR *prima facie* discloses commission of offences under Section 406, 420, 506, 120-B IPC, I do not find any ground for quashing the FIR.

There is no merit in the present petition and the same is hereby dismissed.

July 3, 2018
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(Gurvinder Singh Gill)
Judge

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