

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

Crl. Misc. M 38821 of 2015 (O&M)
Date of decision: November 17, 2018

Gagandeep Singh @ Gagan

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Rozer Kumar Aggarwal, Advocate,
for the petitioner.

Mr. R.S. Khaira, AAG, Punjab.

JAISHREE THAKUR, J.

This is a petition that has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of FIR No. 135 dated 29.10.2015 registered under Sections 354-A, 323, 506 IPC at Police Station Dugri, City Ludhiana.

The facts in brief, as alleged are that the present FIR came to be registered against the petitioner on the statement of one Savinder Kaur, wherein she alleged that she had invested a sum of ₹8,04,000/- in Comety (Mutual Funding Scheme) being managed by the petitioner. However, when the amount was due, the same was not returned by the petitioner. Therefore, on 26.10.2015, the petitioner, along with other members, went to the shop of the petitioner demanding their money. When the complainant asked the petitioner to return her money, the petitioner flared up and rather caught

hold of her by collar of her shirt and in this process the buttons of her shirt broke and made the complainant naked from her breast. Thereafter, other members accompanying the complainant freed her from the clutches of the petitioner and thereupon he started uttering obscene/filthy language and fled from the scene.

Mr. Pawan Kumar, Senior Counsel, assisted by Mr. Rozer Kumar Aggarwal, submits that the petitioner has been falsely implicated in the present case. In fact, Satnam Singh son of Shri Harwant Singh had filed a habeas corpus petition bearing Crl. Writ Petition No. 1571 of 2015 in this Court on 27.10.2015 alleging therein that Joginder Singh and Gagandeep Singh (present petitioner) had been kept in illegal custody by the respondents therein since 26.10.2015 without registration of a case. On the aforesaid Criminal Writ Petition being filed in this Court, a Warrant Officer was appointed by this Court, who got the aforesaid detenues released from the custody of the police and the present petition is nothing but a counter-blast to the said writ petition.

Per contra, learned counsel appearing on behalf of the respondent—State submits that on a complaint made by Savinder Kaur, the matter was inquired into and it is only after it was found that a prima facie case is made out against the petitioner, the present FIR was registered against the petitioner and there is sufficient evidence on record to connect the petitioner with the commission of the offence. It is also argued that the Warrant Officer has nowhere mentioned in his report that the detenues were in illegal custody. The fact of the matter is that one application, bearing diary No. 933-5D dated 27.10.2015, was received from Savinder Kaur for

taking legal action against Gagandeep Singh (present petitioner) for committing fraud with her on the pretext of running kametis (mutual fund schemes) and also allegedly outraging her modesty. A copy of the complaint has been annexed as Annexure R-1/T with the reply. The complaint was marked to ASI Gurvinder Singh for inquiring into the matter, who issued summons under Section 160 of the Code of Criminal Procedure to Gagandeep Singh and in pursuance of which the alleged detinue Gagandeep Singh along with Joginder Singh came to be present in the Police Station. A copy of the summon issued to the petitioner has been annexed with the reply as Annexure R-2/T in Criminal Writ Petition No. 1571 of 2015. It has been further argued that on inquiry so conducted into the complaint moved by Savinder Kaur, offences under Sections 354-A, 323 and 506 IPC were made out, and accordingly FIR No. 135 dated 29.10.2015 under the aforesaid sections was registered against the petitioner.

I have heard learned counsel for the parties and gone through the record of the case.

The sole ground taken by the petitioner for quashing of the FIR is that the same has been lodged as a counter-blast to the Criminal Writ Petition (No. 1571 of 2015) filed by Satnam Singh. This Court by order dated 15.11.2018 has dismissed the aforesaid writ petition, primarily on the ground that the detenues mentioned therein (including the petitioner) had been released and their detention was not found illegal, as a complaint had already been lodged against the petitioner.

Under the circumstances, this Court is not inclined to interfere in the present petition, as it is a disputed question of fact as to when the

complaint was filed and if the petitioner was present in the Police Station in response to the notice issued to him. Even otherwise the allegations in the FIR are of such nature that the same cannot be brushed aside in a cursory manner. The complainant has clearly stated that she had invested a sum of ₹8,04,000/- in the Comety being managed by the petitioner and when she asked for the money, the petitioner had refused to repay the same. Allegations of fraud are there in the complaint. This petition is dismissed. However, the case to be decided on the evidence adduced.

November 17, 2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No