

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41052-2016
DATE OF DECISION:-05.12.2018

SURAJ PARKASH JOSHI AND ANR. ...PETITIONERS...

V.

RAJESH GUPTA ...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Rajvir Singh, Advocate,
for the petitioners.

None for the respondent.

RAMENDRA JAIN, J. (ORAL)

Dasti notice sent to respondent has been received back unserved with the report that respondent has left the given address about 7 years back. Efforts have been made to serve the respondent, but all turned futile, despite serving through publication.

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing criminal complaint No.85/2 of 2014 dated 26.09.2014, titled as "***Rajesh Gupta vs. Suraj Parkash Joshi***" (P-1) pending in the Court of Id. Judicial Magistrate Ist Class, Ludhiana and all consequential proceedings arising thereof.

According to the petitioners, prior to filing of aforesaid complaint by respondent against them for bouncing cheque bearing

No.000011 dated 31.08.2013 for Rs.23 lakhs, a compromise took place between petitioners and respondent on 09.08.2013 (P-3).

Consequently, cheque amount of Rs.23 lakhs was paid by petitioner No.1 to respondent on 10.03.2014 after obtaining the original cheque along with receipt from respondent as token of payment of Rs.23 lakhs. The aforesaid receipt (P-4) showing the full and final payment to respondent and original cheque, on the basis of which, aforesaid complaint was filed by the respondent, are very much in the custody of petitioners. The respondent has also assured to withdraw his aforesaid complaint, but he, with malafide intention, did not withdrew the same. The trial court, ignoring the aforesaid compromise, receipt of payment and original cheque, which is in the custody of petitioner, erroneously summoned the petitioners through non-bailable warrants.

Having given anxious consideration to the submissions made by learned counsel for the petitioner and the fact that petition was filed in the year 2016 and there is no rebuttal to the above version of the petitioners from the side of the respondent, despite making all possible efforts to summon him even through publication.

Therefore, in the absence of any contrary version from the respondent's side, story put forth by the petitioner is liable to be believed and accordingly, it is believed.

Resultantly, instant petition is accepted in toto.

Impugned complaint No.85/2 of 2014 dated 26.09.2014 (A-1)

along with all consequential proceedings are quashed qua the

petitioners only.

Disposed of.

05.12.2018

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whether speaking/reasoned:

whether reportable:

Yes/No

Yes/No

(RAMENDRA JAIN)
JUDGE