

Crl. Misc. No. M-4041 of 2017

Date of Decision: October 26, 2018

Sohan Lal Gupta and others

.....Petitioners

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Aman Pal, Advocate
for the petitioners

Mr. Satish Saini, AAG Haryana

Mr. K.C. Singla, Advocate
for the complainant

-.-

Sudhir Mittal, J. (Oral)

The petitioners are co-accused in FIR No. 471 dated dated 15.08.2016 registered under Sections 420, 406, 506 IPC at Police Station City Fatehabad, District Fatehabad.

The FIR has been registered on the complaint of one Rahul Goyal proprietor of Neelkanth Steel. It states that said Rahul Goyal had business dealings with Sanjay Kumar proprietor of Shri Sarsainath Trading Company, Sirsa. He used to supply material on demand of Sanjay Kumar and payments used to be received on time. However, certain bills for the period 15.10.2015 to 15.12.2015 amounting to Rs. 43,92,877/- were not cleared. Despite repeated demands, the money was not paid. Petitioner No. 1 i.e. brother of Sanjay Kumar undertook to clear the dues of the complainant but did not do so. Thereafter, the complainant was threatened by the petitioners as Sanjay Kumar fled from the city.

Learned counsel for the petitioners submits that from a bare perusal of the FIR, no offence either under Section 406 IPC or under Section 420 IPC is made out. Admittedly, the complainant had business dealings with Sanjay Kumar and some money was outstanding. The dispute is purely civil in nature. Moreover,

there is no allegation in the entire FIR that either of the petitioners were involved in the business dealings with the complainant. The allegations of threats held out by the petitioners are based upon the phone call allegedly made by the complainant but during the course of the investigation no call detail records had been obtained. Thus, lodging of the FIR is an abuse of the process of law and deserves to be quashed.

Learned counsel for the complainant submits that a huge amount of Rs. 43,92,877/- is outstanding against Sanjay Kumar and the petitioners and Sanjay Kumar has fled from the city alongwith his wife. Thus, all of them deserve to be proceeded against criminally.

Learned State counsel argues that the petitioners are accused of holding out threats and, therefore, atleast the offence under Section 506 IPC is made out.

It is settled law that in case a bare perusal of the FIR does not reveal any criminal offence, the FIR should be quashed. In the present case, there is no allegation in the entire FIR that either of the petitioners were part of business dealings with the complainant. There is also no allegation that either of the petitioners were entrusted some property or they ever induced the complainant with dishonest intention to part with property. So far as holding out of threats is concerned, this allegation is only against petitioner No. 1 and not against petitioner No. 2. Even against petitioner No. 1, the allegation is that the threat was held out over telephone but there is no evidence collected by the police during the course of the investigation that the complainant even made a telephone call to petitioner No. 1. It is, thus, obvious that the petitioners have been roped in only to arm twist Sanjay Kumar.

In view of the above, registration of the aforementioned FIR against the petitioners is an abuse of the process of criminal law. Accordingly, the petition is

406, 506 IPC at Police Station City Fatehabad, District Fatehabad is quashed qua the petitioners.

However, the complainant would be at liberty to pursue any other civil remedy that may be available to him under the law.

October 26, 2018

reena

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No