

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-42815-2017

Date of decision: 03.08.2018

Harpreet Singh

..... Petitioner

Versus

Jai Pal

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. JS Khattar, Advocate for
Mr. Deepak Sharma, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for setting aside the judgment dated 19.07.2017 (Annexure P-3) of the Revisional Court, affirming the order of the trial Court dated 19.10.2015 (Annexure P-1), whereby criminal complaint of the petitioner against the respondent under Section 201, 406 and 506 IPC was dismissed.

In nutshell, the petitioner gives shuttering material on rent. On 06.10.2012, respondent took some articles worth ₹ 40,000/- on rent @ ₹ 119/- per day by depositing ₹ 1000/- in advance, agreeing to pay the un-paid rent at the time of returning of articles. The respondent instead of returning the articles, mis-appropriated the same and also did not pay the arrears of rent. In this way, respondent committed criminal breach of trust. On the asking of petitioner to return his articles, the respondent threatened him with dire consequences.

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that it was a clear cut case of breach of trust by the respondent. The respondent not only misappropriated

the articles taken from the petitioner, but also did not pay the arrears of rent as per terms and conditions agreed by the respondent.

Having given considerable thoughts to the submissions made by learned counsel for the petitioner, this Court finds the instant petition completely devoid of any merit for the reason that petitioner did not produce any document or receipt showing delivery of any building material/shuttering to the respondent. The petitioner even did not produce any writing of the respondent agreeing to pay him agreed payment of rent @ ₹119/- per day for the articles which he had allegedly taken from the complainant-petitioner.

Prior to filing of complaint in the Court, the petitioner moved three representations before police which after investigation were filed by the police. Therefore, it is evident that the petitioner had already exhausted his remedies against respondent by directly approaching the police thrice, but when he did not succeeded, he filed instant complaint. Filing of present complaint by the petitioner is a clear cut abuse of process of law, inasmuch, as the dispute is of civil nature. Therefore, instead of filing complaint, the petitioner ought to have file suit for recovery and damages against the respondent.

I have carefully gone through the judgments of both the Courts below and find no illegality or perversity in the same.

Dismissed.

August 03, 2018

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No