

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

Criminal Misc.No.M-803 of 2018 (O&M)

Date of Decision : 06.12.2018

Kuldeep Oswal and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. D.S.Sobti, Advocate
for the petitioners.

Mr. Raj Kumar Makkad, DAG, Haryana.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioners have preferred the instant petition for quashing of case FIR No.396 dated 19.12.2017, registered under Sections 406, 420, 447, 511 IPC, at Police Station Salem Tabri, Ludhiana, Police Commissionerate, Ludhiana.

An application was filed by Vijay Kumar Jain, before the Judicial Magistrate Ist Class, Ludhiana with regard to the bungling the funds of a cheritable trust namely Shri Baba Ji Ram Dass Jain Charitable Trust (Regd.),. Due to this, the inquiry was ordered to be marked to Addl. Deputy Commissioner of Police, who after checking the record and recording the statements of the parties found as under:-

“During the investigation, it was found that Trust Members Vishal Jain and Vijay Kumar Jain etc. had never given any information to the police regarding committing of cheating of

vouchers and other frauds by Nand Lal Jain etc. Vishal Jain and Vijay Kumar Jain etc. misguided the Hon'ble Court by giving false statements/arguments, however, all the records of the trust are with Vishal Jain and Vijay Kumar Jain, Secretary. That the trust could not produce concrete evidence against Nand Lal Jain etc. regarding committing of cheating. During investigation, this fact also came into picture that Vishal Kumar Jain in connivance with his other accomplices Vijay Kumar, Kuldeep Oswal, Samti Parkash, Ashok Jain, Sanjay Jain etc. has given incomplete information in the case before the Ld. Court of Sh. Gurinder Pal Singh, Civil Judge, Ludhiana with the intention to take possession of the trust by cheating and by producing false facts before the Hon'ble Court, has got the above case registered. However, the complainant in the case could not produce any document regarding any one of Sections out of the Sections under which case has been registered. On the basis of above facts, I agree with the reports of Head Officer, Police Station Salem Tabri, Ludhiana and Assistant Commissioner of Police (North), Ludhiana. Subject cited case has been found to be registered on the basis of wrong facts during investigation. Therefore, if approved by you, amendment may be made in the report in Case No.128 dated 29.04.2017, under Sections 420, 465, 467, 468, 471, 34 IPC., Police Station Salem Tabri, Ludhiana and order be passed for conducting investigation after registration of case under Sections 406, 420, 447, 511 IPC at Police Station Salem

Tabri, Ludiana against Vishal Jain, Vijay Kumar Jain, Kuldeep Oswal, Samti Parkash, Ashok Jain, Sanjay Jain for misguiding the Hon'ble Court, making entries of the old Trust Members by giving wrong information in the Court and for trying to take possession of the trust by keeping the record of the trust with themselves.”

In pursuance of this, FIR was registered for the offences under Sections 406, 420, 447, 511 IPC.

I have heard learned counsel for the petitioner and have gone through the record.

Learned counsel for the petitioner has submitted that the petitioner is the whistle blower; that he brought to the notice of the Commissioner of Police, Ludhiana regarding embezzlement of the funds by the members of the trust and mis-management made by them; that instead of taking action against them, an FIR has been wrongly registered against the petitioner and his associates on the wrong concocted facts; that even if it is found the allegations levelled by the petitioner in the application submitted to the Commissioner of Police, Ludhiana were in any way false then maximum proceedings under Sections 482 Cr.P.C. can be initiated. In support of his contentions he has placed reliance upon the judgment of Hon'ble Supreme Court in **State of Haryana and others v. Ch. Bhajan Lal and Ors., 1992 AIR (SC) 604.** . He has also placed reliance upon the judgment of Hon'ble Supreme court in **Asmathunnisa vs. State of Andhra Pradesh (2011), 11 Supreme Court Cases 259.**

On the other hand, learned State counsel has submitted that the petitioners themselves committed cheating, breach of trust and made an

attempt to criminal trespass. In the investigation, the truth was revealed and FIR has been registered against them. It has been further submitted that it is no stage to quash the FIR.

I have given thoroughful consideration to the rival contentions.

A bare perusal of the material available on the record reveals that Addl. Deputy Commissioner of Police, Ludhiana found that the petitioners themselves lodged false application with an intention to take the the property by cheating the complainant and by producing false facts.

The case is at investigation stage. In case the investigating agency arrives to the conclusion that the report of Addl. Deputy Commissioner of Police, Ludhiana dated 14.07.2017 is in any way false or without substance then the cancellation report can be submitted. However, in case, it is found that there is a plausible evidence against the petitioners then the charge-sheet may be submitted under the provisions of Section 173 Cr.P.C. and they may be put to trial.

In view of aforesaid, this court is of the view that no case to quash the FIR is made out. Hence, the instant petition stands dismissed.

6th December, 2018
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No