

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22832-2018 (O & M)

Date of decision: 17.11.2018

Arun Kumar Menon

.... Petitioner

V/s

State of Punjab and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vikram Chaudhari, Sr. Advocate,
with Mr. Sangram S. Saron, Advocate, and
Mr. Sonpreet S. Brar, Advocate, for the petitioner.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

RAJAN GUPTA, J. (Oral)

Petitioner has preferred this petition seeking transfer of investigation of FIR No. 114 dated 23.05.2018 registered under Sections 420 IPC at Police Station P.S. Kotwali, Bathinda, to an independent agency. Alternatively, to quash the same as no offence is made out as also to quash order dated 06.06.2018 and subsequent warrants of arrest issued by CJM Bathinda, pursuant to application moved by investigating agency.

It has been urged before the court that the transaction between the petitioner and the complainant was primarily commercial in nature. Certain business losses having been caused, instant FIR was lodged by the complainant alleging breach of trust (Section 406 IPC) and cheating (Section 420 IPC). According to Mr. Chaudhari, the dispute is purely civil in nature. There being no criminality involved, the FIR is misuse of power. Besides, in case, complainant had any grievance of loss caused to him, he could have sought the civil remedy. Alternatively, he has prayed that the investigation be conducted by an independent agency such as CBI to prevent abuse of process of law.

Learned State counsel has opposed the prayer. According to him, the investigation agency found that a cognizable offence is made out and the investigation is proceeding in the right direction. Same is being conducted in an unbiased and impartial manner. This is borne out from the fact that the investigating agency has already found the wife of the petitioner innocent. Thus, it is not a fit case for handing over to Central Bureau of Investigation. Even State police has an independent agency known as Bureau of Investigation. It can handle this kind of investigation.

Having heard learned counsel for the parties, this court feels that it need not make any observation regarding the merits of the case at this stage. As Bureau of Investigation has been set up by the State for investigating crimes of specialized nature, it would be appropriate that investigation of instant case is handed over to it. Ordered accordingly.

The petitioner would be at liberty to seek appropriate remedy in case petitioner has any apprehension of arrest. As the warrants of arrest issued by the court at Bathinda may have lapsed, no order need be passed in this regard as investigating agency is always at liberty to act as per provisions of Cr.P.C.

In view of aforesaid order passed by this court, the prayer for quashing of the FIR has rendered infructuous. Disposed of. A status report, however, be submitted within two months.

November 17, 2018
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No