

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-15844-2018 (O&M)
Date of Decision:- 11.7.2019

Rajinder Singh and another	Versus	... Petitioners
State of Punjab and another		... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. M.S.Khaira, Senior Advocate with
Mr. D.S. Randhawa, Advocate, for the petitioners.

Ms. Amarjit Kaur Khurana, Sr. DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners have approached seeking quashing of FIR No. 142, dated 12.9.2017, Police Station Division No.8, Ludhiana, under Sections 420, 120-B IPC and Section 72 of the Information Technology Act, 2000.
2. The allegations, in nutshell, are that petitioner No.2 had earlier been working in the factory of the complainant which was into export of agricultural and irrigation equipment. Later on the accused Jasjit left the complainant's factory and allegedly contacted the complainant's clients in an attempt to enter into business with them directly. The relevant translated gist of the FIR reads as follows:

“6. That recently the complainant got the queries from his old buyers that the one Mr. Jasjit Singh of Chana Fastner is selling the same goods as manufactured by the complainant at much lesser rates and the said seller (Jasjit Singh) had also sent photographs to the buyers abroad, of the goods, factory and the machinery. On asking, the said photographs were sent by the buyer to the complainant on “whatsapp”.
7. That the complainant was surprised and shocked to find that the said photographs were of his own factory (Sareena Overseas) machinery and the goods manufactured by him. Further enquiries revealed that in fact the accused No.1 has stolen the entire data from the complainant office and thereafter he in connivance with his father accused No.2 had tried to exploit the foreign buyers by showing the factory, machinery, labour and goods of the complainant as his own thereby causing wrongful loss to the complainant and wrongful gain to themselves. In fact the accused had a mischievous intention and he left the job only after collecting data, so as to cause wrongful loss to the complainant.”

3. Learned counsel for the petitioners has submitted the following submissions:

- i. That the petitioner is at best a competitor of the complainant firm and into the same business manufacturing the same and similar items.
- ii. That there is nothing on record to show that the articles being allegedly exported by the complainant were patented so as to debar any other firm exporting or manufacturing similar equipment.

- iii. That there is nothing on record to show that the accused had stolen or passed on any vital information/drawing of the equipment being manufactured by the complainant.
- iv. That in any case no offence under Section 72 of the Information Technology Act, 2000, is made out even from the reading of the FIR.
- v. That in any case no offence under Section 420 IPC is made out as there is nothing on record to show that any loss has been caused to the complainant by causing illegal gain to the accused.
- vi. That the photographs showing petitioners standing with another worker along with some machines, relied upon by prosecution cannot be treated as absolute and definite evidence to establish any kind of theft or cheating.
- vii. That in any case petitioner No.1, who is father of Jasjit Singh cannot be said to have played any role in the alleged commission of offences.

4. Having heard the learned counsel for the petitioners, the petition is disposed of with a direction to the trial Court to consider the aforesaid submissions at the time of considering the framing of charges by passing a speaking order in context of the documents being relied upon by the prosecution.

July 11, 2019

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No