

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(1)

Crl. Misc. No. M-16593 of 2016(O&M)

Date of decision: October 24, 2019

Parshu Ram Kaushik and others

..... PETITIONER(s)

Versus

State of Punjab and another

....RESPONDENT(s)

(2)

Crl. Misc. No.M-43442 of 2016 (O&M)

Purshu Ram Kaushik and others

..... PETITIONER(s)

Versus

State of Punjab and another

....RESPONDENT(s)

(3)

CRM-M-13175 of 2017 (O&M)

Neeti Rajan

.... PETITIONER(S)

Versus

State of Punjab and another

....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gursimran Singh Bawa, Advocate
for the petitioners in CRM-M No.16593 of 2016,
CRM-M No.43442 of 2016 and
for respondent no.2 in CRM-M-13175 of 2017.

Mr. Maninder Singh Bajwa, Advocate
for petitioner in CRM-M-13175 of 2017 and
for respondent no.2 in CRM-M No.16593 of 2016 and
CRM-M No.43442 of 2016.

Mr. Amitoj Singh Dhaliwal, D.A.G. Punjab
for the respondent-State.

SURINDER GUPTA, J(Oral)

This order will dispose of CRM-M-16593 and 43442 of 2016 filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') seeking quashing of complaints No.07/2012/2014 dated 10.3.2012 and No.361/16 dated 18.7.2016 titled as Neeti Rajan Kesar vs. Purshu Ram Kaushik and others and also CRM-M-13175 of 2017 seeking cancellation of bail granted by this court in the above mentioned complaints.

Heard.

The complainant-respondent no.2 Neeti Rajan Kesar filed criminal complaint with the allegations in para no.6 of the complaint which reads as follows :-

“6. That the accused no.1 to 3 alongwith Sureinder Kumar son of Murari Lal Rawat Resident of Nagla Cheeta Khand Lohwan, Tehsil Mahawan, District Mathura filed a petition under Section 482 Cr.P.C. for quashing of the criminal complaint no.07/2012/2014 bearing CRM-M-16593 of 2016 in the Hon'ble Punjab and Haryana High Court at Chandigarh. It is pertinent to mention over here that in CRM-M No.16593 of 2016 the accused no.1 to 3 stated that they are residents of Shiv Mandir Shri Shankracharya, Gali No.7, Jagdambey Colony, Amritsar District Amritsar and in support of their petition, the accused no.1 also filed an affidavit. In fact, the accused no.1 to 3 according to their petition CRM-M No. 16593 are residents of Amritsar but the accused no.2 to 3 while appearing in the court of Sh. Daleep Kumar and court of Sh. Prem Kumar at Amritsar,

they given their address of village Padal Goverdhan, Mathura.”

The trial court summoned the accused (petitioners in CRM-M-43442 of 2016) for offence punishable under Section 120-B IPC only. The specific observations are that there is no evidence to prove that the accused have committed the offence punishable under Section 420 IPC. For the sole reason as discussed above when no substantive offence has been committed, the summoning of accused under Section 120-B IPC is not tenable.

In the other complaint filed under Section 406/420/323/506/120-B IPC the allegations are that the petitioner Surendra Kumar was in need of money and took loan of Rs.5.00 lakhs from respondent no.2 (complainant). The loan amount was not returned. The intention of the accused was not honest and he wanted to commit fraud with the complainant. The matter was reported to the police but no action was taken. On 8.3.2012, at about 4.10 p.m. when the complainant asked for his money in the shopping complex Ranjit Avenue from Ram Avtar Kaushik, he was given slaps.

The trial court summoned the accused for offence punishable under Sections 406/420/506/120-B IPC. However, he was not summoned for offence punishable under Section 323 of IPC.

It has been admitted during the course of arguments that for the recovery of amount of Rs.5.00 lakhs, the petitioner filed a recovery suit which was decreed and decretal amount has since been deposited. For the allegations in the complaint, no criminal liability of petitioner Surendra Kumar is made out as it was a contractual transaction. After recovery of entire amount through suit for recovery, filing of complaint and further proceedings in court amounts to sheer misuse of process of law.

Consequently, both the petitions (CRM-M-16593 and 43442 of 2016) are allowed and the complaints filed by respondent no.2-Neeti Rajan Kesar are quashed. In view of the quashing of the complaints, criminal miscellaneous No. M-13175 of 2017 filed by complainant for cancellation of bail has been rendered infructuous and is dismissed. All other criminal miscellaneous applications pending in the above mentioned petitions also stand dismissed being not pressed and rendered infructuous.

October 24, 2019
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(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No