

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

209

CRM-M-19127-2018 (O & M)  
Date of Decision:14.01.2019

Rahul Dhuper

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Manish Soni, Advocate  
for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

None for respondent No.4.

Ms. Sehar Navjeet Singh, Advocate for  
Mr. Damanbir Sobti, Advocate  
for respondents No.5 to 7.

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**MANOJ BAJAJ, J.**

Rahul Dhuper (complainant) has filed this petition under Section 482 Cr.P.C. challenging the order dated 08.12.2017 (Annexure P-5) passed by the learned Judicial Magistrate Ist Class, Gurugram, whereby the prayer for sending the complaint (Annexure P-3) to police for registration of FIR in terms of Section 156 (3) Cr.P.C. was declined. The petition further challenges the order dated 13.04.2018 (Annexure P-7) passed by the learned Additional Sessions Judge, Gurugram, whereby the revision petition against the order dated 08.12.2017 was dismissed as not maintainable.

It is the case of the petitioner that a complaint (Annexure P-2)

dated 06.06.2017 was given to the Commissioner of Police, District Gurugram against Keshav Chauhan and others with the allegations that at the inducement of accused the complainant parted away a sum of ₹1 crore through RTGS in the account of M/S Mona Portfolio Limited i.e. the company of the accused persons, as an assurance was given that the complainant would either get a share or handsome profit in the residential housing project. It is alleged that no project was launched and it has caused a wrongful loss to the petitioner (complainant), however, no action was taken by the police.

Aggrieved against this, the petitioner-complainant preferred a complaint before the Court of learned Judicial Magistrate Ist Class, wherein the following prayer was made:-

“In the given circumstance, it is most respectfully prayed that the present petition be allowed under the provisions of Section 156(3) Cr.P.C. and the S.H.O., Police Station Sushant Lok, Gurgaon be directed to register a FIR under Sections 420/406/506/120B/34 IPC against the accused persons immediately and submit the investigation report before this Honourable Court.

It is also prayed that the accused be summoned under the above mentioned offence and be prosecuted as per law.

The Honourable court may pass any order as deem fit in the interest of justice.”

Upon filing of the complaint, the Court had sought for the report from the concerned Police Station regarding the status of the complaint. In the report (Annexure P-4), it is indicated that the respondent -

Tejinderpal Setia had stated that the transaction pertains to the friendly loan and out of which a sum of Rs.2 lacs has already been returned to the complainant.

According to the report, complainant could not produce any agreement or contract between the parties and found that it was a money transaction between the parties and no cognizable offence was found to have been committed.

The learned Magistrate vide its order dated 08.12.2017 refused to send the complaint for investigation under Section 156(3) of the Code of Criminal Procedure as there was no written agreement between the parties regarding the said transaction. However, at the same time, the Court has proceeded to treat the case as a complaint case and fixed the matter for recording the preliminary evidence of the complainant.

The revisional Court has dismissed the petition as not maintainable vide a detailed order dated 13.04.2018.

In response to the petition, separately short replies have been filed by respondent No.4 and respondents No.5 to 7 . Respondent No.4 namely Keshav Chauhan has taken a stand that no amount has been paid by the petitioner to respondent No.4, whereas the reply on behalf of respondents No.5 to 7 have supported the orders passed by the learned Magistrate as well as the Revisional Court.

Learned counsel for the parties have been heard.

The order passed by the learned trial Court on the face of it appears to be justified as there were two prayers made in the complaint by the petitioner (complainant). The Court has opted to treat the case as a

complaint case and fixed the matter for recording the preliminary evidence. While doing so the Court has given valid reason that the allegation as contained in the complaint are not supported by any material, which would prima facie show commission of a cognizable offence.

In view of the above, no ground is made out for interference.

Dismissed.

14.01.2019

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**(MANOJ BAJAJ)**

**JUDGE**

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No