

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-2545 of 2015

.....

Date of decision:16.01.2019

Force Motors Ltd. and another

...Petitioners

v.

Ashok Kumar

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Suvineet Sharma and Viraj Gandhi, Advocates for the petitioners.

Mr. N.K. Verma, Advocate for the respondent.

Ms. Monika Jalota, Deputy Advocate General, Punjab for the respondent-State.

.....

Inderjit Singh, J.

This criminal miscellaneous petition has been filed under Section 482 Cr.P.C. for quashing of the criminal complaint No.9/2010 dated 23.2.2010 (Annexure-P.1) under Sections 420, 467, 468, 471 and 120-B IPC filed by the respondent, the summoning order dated 14.8.2014 (Annexure-P.2) pending in the Court of learned Judicial Magistrate Ist Class, Fatehgarh Sahib and all consequential proceedings arising therefrom.

Notice of motion was issued in this case.

Mr. N.K. Verma, learned Advocate has appeared for the private respondent and Ms. Monika Jalota, learned Deputy Advocate General,

Punjab has appeared on behalf of the respondent-State and contested this petition.

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

I have gone through the copy of the complaint placed on record. A perusal of the complaint shows that the complainant has filed the complaint against Bhambra Motors Authorised dealers of Force Motors Limited through owner Shri Gurpreet Singh Bhambra, Shri Gurpreet Singh Bhambra, Force Motors Ltd. and Managing Director, Force Motors Ltd. for the offences under Sections 420, 467, 468, 471 and 120-B IPC.

As per the complaint, accused No.3 is in the business of manufacturing of the buses and accused No.4 is its In-charge. Accused No.1 is dealer of accused No.3 and accused No.2 is owner of accused No.1. A perusal of the complaint shows that in the month of June 2008, the complainant met accused No.1 and 2 at Mohali to purchase two City line buses, who are dealers of accused No.3 and 4. A perusal of the complaint shows that the complainant never met accused No.3 and 4 nor there is any direct transaction of the complainant with accused No.3 and 4. If anything has been mentioned or promised by the dealer accused No.1 and 2 and any terms and conditions are there that are between the complainant and accused No.1 and 2. Accused No.3 and 4 have not supplied the buses directly to the complainant. Neither they gave any inducement nor there is any agreement between the complainant and accused No.3 and 4, who are the present petitioners. No money has been paid to accused No.3 and 4-the petitioners ~~nor~~ buses have been supplied by them to the complainant. Even if it is

[3]

taken that there is some irregularity while manufacturing the buses or there is some difficulty having not passed over etc. the same and these are not same as per required specifications etc., even then there is no direct allegation against accused No.3 and 4 nor they have any transaction or dealing with the complainant. There is no concept of vicarious liability under the criminal law. The manufacturer or dealers can be held vicariously liable in criminal law if specifically provided in the statute. The concept of vicarious liability is not applicable in the general criminal proceedings. Therefore, filing of the complaint, summoning order and the subsequent proceedings against the present petitioners are nothing but an abuse of the process of law and amount to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed and criminal complaint No.9/2010 dated 23.2.2010 (Annexure-P.1) under Sections 420, 467, 468, 471 and 120-B IPC filed by the respondent, the summoning order dated 14.8.2014 (Annexure-P2) pending in the Court of learned Judicial Magistrate Ist Class, Fatehgarh Sahib and all consequential proceedings arising therefrom are quashed qua the petitioners.

January 16, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No