

**CRM-M-29095-2018(O&M) &  
seven other connected cases**

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

**CRM-M-29095-2018(O&M) &  
seven other connected cases  
Date of Order:17.05.2019**

**Jaishree Rai**

**..Petitioner**

**Versus**

**Sandeep Ohri**

**..Respondent**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Rahul Sharma-I, Advocate  
for the petitioner (in CRM-M-29095-2018)**

**Mr.P.S.Ahluwalia, Advocate,  
for the petitioners (in CRM-M-9632-2016, CRM-M-30644,  
33826, 39253, 39731 of 2017 and CRM-M-7506-2018)**

**Mr. Rakesh Kumar, Advocate,  
for the respondent (in CRM-M-29095-2018)**

**Mr. Jagjit Singh, Advocate  
for respondent No.2(in CRM-M-9632-2016)  
for respondent no.3(in CRM-M-37450-2016)**

**Mr. Ramdeep Partap Singh, DAG, Punjab  
(in CRM-M-9632 & 37450-2016)**

**ANIL KSHETARPAL, J.**

By this judgment, CRM-M-29095-2018, CRM-M Nos.30644, 33826, 39253, 39731 of 2017, CRM-M-7506-2018, CRM-M-9632-2016 and CRM-M-37450-2016 shall stand disposed of. Three points need determination/adjudication:-

- (1) Whether in the facts and circumstances of the present case, proceedings initiated by filing various criminal

complaints as also FIR are abuse of the process of court?

- (2) Whether in the facts and circumstances of the present case, the dispute between the parties is a civil dispute and the proceedings initiated by respective parties are liable to be quashed?
- (3) Whether Sachin Ohri-petitioner in one of the petition is guilty of suppressing facts while filing various criminal complaints and thus indulged in Bench hunting?

Detailed facts are required to be noticed.

Sandeep Ohri claims that he is owner of commercial (office) spaces No.1-A and 2-A in Midland Financial Centre, Plot No.21-22 G.T Road, Jalandhar. Undisputedly, Sandeep Ohri entered into an agreement to sell, dated 20.01.2014 Office Space No.2-A in favour of Mrs. Ranjit Kaur Chhokar, whereas office space No.1-A to Smt. Jaishree Rai, petitioner in one of the petition on 28.01.2014. 9 owners of various offices spaces in the same building rented out large commercial space in favour of Kayoko Helpdesk Pvt. Ltd., area measuring approximately 15000 Sq. feet spread over 4<sup>th</sup> and 5<sup>th</sup> floor of the building.

Sandeep Ohri filed a civil suit on 06.02.2014 against Midland Developers and others for passing a decree of permanent injunction claiming to be owner of two commercial spaces. During the pendency of the suit for permanent injunction, a Local Commissioner was appointed to carry out local inspection of the site, who submitted report dated 18.03.2014. Sandeep Ohri was present at the time when the premises was inspected by the Local Commissioner. In the aforesaid report, it was

reported that certain structural changes have been made, entry from the 5<sup>th</sup> floor has been blocked and intervening wall had been removed.

On 19.03.2014, a deed of compromise was signed between all the parties to the present petitions including Mrs. Ranjit Kaur Chhokar who was agreement holder from Sandeep Ohri with respect to Office space No.2-A. In the aforesaid compromise, existence of agreements to sell in favour of Ranjit Kaur Chhokar as also Smt. Jaishree Rai were admitted. Mrs. Ranjit Kaur Chhokar was admitted to be absolute owner in possession of Office space No.2-A since 20.01.2014. With respect to second agreement to sell with Jaishree Rai, it was agreed that irrespective of the terms of the agreement to sell, Sandeep Ohri would receive monthly rent from M/s Kayoko Helpdesk Pvt. Ltd. with regard to promise agreed to be sold to Smt. Jaishree Rai. He also received the disputed payments and damages. Midland Developers in order to purchase peace and make amicable settlement, also additionally paid a sum of Rs.1,00,000/- to Sandeep Ohri. It was agreed that Sandeep Ohri would withdraw his complaint under Section 138 of the Negotiable Instrument Act filed against Santokh Singh husband of Smt. Ranjit Kaur Chhokar. It was also agreed that the Sandeep Ohri shall also withdraw complaint and the civil suit filed by him against Smt. Jaishree Rai. Copy of the compromise deed is attached with the petition. Pursuant to the aforesaid compromise, Sandeep Ohri withdrew civil suit filed for injunction, copy annexure A-6 .

On 19.03.2014 itself, a fresh lease deed was executed between Sandeep Ohri and Kayoko Helpdesk Pvt. Ltd.. Smt. Jaishree Rai filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of Kayoko Helpdesk Pvt. Ltd., alleging that rent has

not been paid.

Sandeep Ohri also filed a petition under East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of Kayoko Helpdesk Pvt. Ltd. and its Director, whereas Kayoko Helpdesk Pvt. Ltd. filed a interpleader suit by impleading Sandeep Ohri and Smt. Jaishree Rai, defendants. Kayoko Helpdesk Pvt. Ltd., fed-up with the various litigations initiated, sent a notice dated 09.09.2015 terminating the lease with information that they shall be vacating the premises, handing over the keys in the interpleader suit, pending for 19.09.2015. Pursuant to the aforesaid notice, on 19.09.2015 Kayoko Helpdesk Pvt. Ltd., filed an application for interim direction for receiving the possession of the suit property from it. Mrs. Jaishree Rai has also filed a suit for specific performance of the agreement to sell against Sandeep Ohri which is pending.

Now let us come to the criminal proceedings which have been initiated. Sandeep Ohri filed a complaint in the Court under Sections 379/380/426/427/506 IPC on 21.05.2015 alleging that lot of damage has been done to the property by the accused and bricks etc. have been stolen. Smt. Jaishree Rai lodged FIR No.122, dated 30.06.2015 against Sandeep Ohri and Raghav Arora(Director of Kayoko Helpdesk Pvt. Ltd.) alleging that a lease deed dated 10.03.2014 has been executed on account of collusion between Sandeep Ohri and Raghav Arora to which Sandeep Ohri was not entitled to. Thereafter Sandeep Ohri filed another criminal complaint dated 23.12.2015 alleging that his premises has been leased out vide lease deed dated 16.12.2013 by Parminder, although, he never executed power of attorney in favour of Parminder. Yet another criminal complaint was filed by Sandeep Ohri, dated 16.03.2016, alleging that he

was induced to enter into compromise dated 19.03.2004, the rent as promised has not been paid and damage to the property has been caused by the Kayoko Helpdesk Pvt. Ltd. Sandeep Ohri also filed yet another criminal complaint on 02.06.2016, although, partners in M/s Midland Developers and directors of Kayoko Helpdesk Pvt. Ltd. were named as proposed accused, but the learned Magistrate only summoned Parminder Singh.

**CRM-M-9632-2016 and  
CRM-M-37450-2016**

In these petitions, quashing of FIR No.122, dated 30.06.2015, under Section 406/420/120-B IPC, Police Station Navi Baradari, Jalandhar City, got registered by Mrs. Jaishree Rai has been sought. One petition has been filed by Raghav Arora and second petition has been filed by Sandeep Ohri. In the FIR, precise allegations are that Raghav Arora has failed to pay agreed rent, Raghav Arora and Sandeep Ohri colluded together in connivance with each other prepared another lease deed dated 10.03.2014 for which they were not entitled to. Sandeep Ohri has no right to execute the alleged lease deed as he while selling the property in question delivered the possession to the complainant (Mrs. Jaishree Rai), who further leased out the same. Similarly Raghav Arora signed the alleged lease deed dated 19.03.2014 for which he is not entitled to. Thus, Sandeep Ohri and Raghav Arora have played fraud to grab the property purchased by the complainant and leased out to Raghav Arora. It is apparent that the allegations made in the FIR are factually incorrect. Smt. Jaishree Rai while lodging the FIR dated 30.06.2015, has not disclosed deed of compromise dated 19.03.2014, existence whereof is not being disputed by the parties in these petitions. In the aforesaid compromise, dated 19.03.2014, Shri Sandeep Ohri was

specifically authorized to give the property on lease and receive rent. Although, it is true that as per the agreement to sell dated 28.01.2014 between Sandeep Ohri and Smt. Jaishree Rai, Smt. Jaishree Rai was given right to lease out the property but the aforesaid agreement stood altered/modified by compromise deed dated 19.03.2014, therefore, FIR No.122 dated 30.06.2015 is clearly abuse of the process of court and entire basis of the FIR is factually incorrect.

Hence, the aforesaid two petitions i.e. CRM-M-9632-2016 and CRM-M-37450-2016 are allowed.

**CRM-M-30644-2017** and  
**CRM-M-33826-2017**

First petition is filed by Raghav Arora and Kayoko Helpdesk Pvt. Ltd., whereas second petition is filed by Varun Shoor and Poonam Shoor all Directors of Kayoko Helpdesk Pvt. Ltd.. These petitions arise from criminal Complaint No.185 of 2015, filed on 21.05.2015. In the complaint, allegations made by Sandeep Ohri, in precise, are with respect to damage caused to the property by Kayoko Helpdesk Pvt. Ltd. and its Directors which had already been noticed by the Local Commissioner appointed by the Civil Court in its report dated 18.03.2014. In this complaint, allegations of theft were also levelled but rejected by the trial court while passing an order of summoning. Accused, who are directors of the tenant company have been summoned under Section 426/427/506 IPC read with Section 34 IPC. In this complaint, Sandeep Ohri had concealed the fact that he filed a civil suit dated 06.02.2014. He had also concealed that in his presence Local Commissioner had inspected the site on 18.03.2014 and noticed the changes made by the tenants. Sandeep Ohri,

complainant has also concealed that a compromise was arrived at thereafter on 19.03.2014 to which Sandeep Ohri, complainant-respondent no.1 is signatory. Subsequent withdrawal of the suit by Sandeep Ohri pursuant to the compromise has also been concealed from the Court. Thus, Sandeep Ohri has not filed this complaint after disclosing correct facts to the court. He has also tried to withhold from the court various developments which had taken place before the filing of the complaint. It may be noted that these developments as noticed above are not being disputed by Sandeep Ohri in these petitions.

Apart therefrom, if one analyse the allegations made in the complaint, in the considered opinion of this court, offences under Sections 426/427 and 506 read with Section 34 of the Indian Penal Code are not made out. Section 426 IPC deals with punishment for mischief whereas Section 427 IPC provides for punishment for mischief causing damage to the amount of Rs.50/-. Mischief has been defined in Section 425 IPC. Section 425, 426 and 427 IPC are extracted as under:-

**425. Mischief.**—Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits “mischief”.

**426. Punishment for mischief.**—Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months,

*or with fine, or with both.*

**427. Mischief causing damage to the amount of fifty rupees.**—*Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

On careful reading of Section 425 IPC, it is apparent that the mischief as defined in the provision do deal with destruction of any property, or any such change in the property which destroys or diminishing its value or utility, or affects it injuriously. However, all alterations/changes/renovations do not fall within the definition of “mischief”. The allegations should be specific and explicit, if a person is to be prosecuted for the offence of 'mischief'. Still further changes made by tenant in normal circumstances particularly when the possession is with the tenant normally would not fall within the definition of “mischief”. A word of caution, this court is not returning a finding that a tenant can never be held to be accused of mischief, however, it would depend upon the facts and circumstances of every case.

Still further, as noticed above, material facts have been concealed. Tenancy of 15,000 sq. feet area in favour of Kayoko Helpdesk Pvt. Ltd. is not in dispute which is spread over 4<sup>th</sup> and 5<sup>th</sup> floor of the building. 9 owners including Sandeep Ohri had jointly leased out commercial space to Kayoko Helpdesk Pvt. Ltd.. Although, Sandeep Ohri claims that he never authorized Mr. Parminder Singh, his alleged attorney to execute lease deed, but thereafter Sandeep Ohri as noticed above had filed a

civil suit and during the pendency thereof, compromise was arrived at on 19.03.2014. In such circumstances, continuance of the present complaint and proceeding thereunder and the petitioners shall be abuse of the process of court.

Still further, the order of summoning passed by the learned court does not show due application of mind. After reproducing the contents of the complaint and noticing that who are the witnesses which have been examined, the court had summoned the accused (petitioners herein). The trial court has not examined as to how offences under Sections 426/427/506 IPC are made out. It may be noted here that Section 506 IPC deals with punishment for criminal intimidation. However, on reading of the complaint, it is apparent that offence of criminal intimidation is not made out. Learned trial court has also not applied its mind as to how offence under Section 506 read with section 34 IPC is made out.

Accordingly, CRM-M-30644 and CRM-M-33826 of 2017 are also allowed and complaint and summoning order qua petitioners are quashed.

**CRM-M-39253 of 2017**  
**CRM-M-7506 of 2018**, and  
**CRM-M-29095-2018**

First petition is by Raghav Arora i.e. CRM-M-39253 of 2017, second petition is by Varun and Poonam i.e. CRM-M-7506 of 2018 and third petition i.e. CRM-M-29095-2018 is filed by Jai Shree Rai. In these petitions, prayer is to quash the criminal complaint filed on 16.03.2016 by Sandeep Ohri against the petitioners herein. Precise allegations are that in the year 2013, office space owned by the complainant has been leased out even before agreement to sell in favour of Mrs. Ranjit Kaur Chhokar was

executed. It has further been pleaded that he has been shown to be one of the lessor for which he has already filed a criminal complaint. In this complaint, once again allegations have been made for demolishing the office space and illegal encroachment of the office space of the complainant and blocking of opening of the 5<sup>th</sup> floor. In this complaint, which was filed on 16.03.2016/17.03.2016, complainant has concealed from the Court civil suit filed by him on 06.02.2014, Local Commissioner report dated 18.03.2014. The complainant has also not disclosed that against accused nos.3, 4, 5, 6, 7 and 8, he has already filed criminal Complaint No.184 of 2015 on 21.05.2015. It has further been alleged that Smt. Ranjit Kaur Chhokar had demolished the office of the complainant and illegally tried to encroach. Once there was agreement to sell with Smt. Ranjit Kaur Chhokar dated 20.01.2014, which is admitted in the complaint itself in para 3, and Smt. Ranjit Kaur Chhokar was authorized to lease out the property or in other words the intended purchaser was held to be entitled to manage the property, filing of such criminal complaint was not justified. In this complaint, Sandeep Ohri had alleged that he has been cheated by the accused. Further cheating has been explained by stating that he has been cheated out of money, the rental income and even the office has been demolished apart from encroachment. From the facts, which have been noticed already, it is apparent that the allegations against the petitioners are not only factually incorrect but also against the record.

Accordingly, the Complaint No.94 of 2016 dated 17.03.2016 and summoning order as also subsequent proceedings qua petitioners shall stand quashed.

The complainant is filing repeated complaints against the same

accused or by adding one or more accused in addition to the remaining accused who were also impleaded as accused in the pervious complaint also, the complainant must disclose those facts in the complaint itself.

**CRM-M-39731 of 2017.**

This petition has been filed by Raghav Aroa, Director of the tenant-company seeking quashing of criminal Complaint No.3280 of 2015 filed on 23.12.2015. In this complaint, there are no specific allegations/assertions against Raghav Arora.

It has not been alleged that Kayoko Helpdesk Pvt. Ltd. or its Directors were involved or had colluded with 9 owners (lessors) who had executed the lease deed, although, complainant had never authorized Parminder Singh. Apart from that there are no allegations against Kayoko Helpdesk Pvt. Ltd. or its Directors.

In this complaint also, Sandeep Ohri has not disclosed filing of earlier complaint i.e. Complaint no.184 of 2015 instituted on 21.05.2015. Apart from that, allegations against Raghav Arora i.e. accused no.4 are to the effect that Sandeep Ohri never entered into any lease deed with Kayoko Helpdesk Pvt. Ltd., regarding his office on 16.12.2013 and he never gave attorney or authorized Parminder Singh to lease out the property. Apart from that, there are allegations of encroachment of the lobby area, the lease deed is claimed to be result of forgery. It may be noted here that in this complaint also, Sandeep Ohri had concealed filing of civil suit dated 06.02.2014, report of the Local Commissioner dated 18.03.2014, deed of compromise to which complainant-respondent is party dated 19.03.2014 and also withdrawal of the suit consequent upon the compromise. Raghav Aroa is only a Director of the company which had taken the premises on lease.

Even if it is assumed that Parminder Singh was never authorized to lease out the property, in any case, once, thereafter, there was a compromise and fresh lease deed was executed on 19.03.2014, the irregularity, if any, stood rectified. It may be noted that Parminder Singh is not one of the petitioner in these petitions. Still further, Raghav Arora, petitioner in the present petition is Director of the lessee-company. There are no allegations in the complaint that Raghav Arora was in knowledge of the fact that Parminder Singh had not been authorized by Sandeep Ohri. The changes which have been made in the premises have already been acknowledged and ratified by Sandeep Ohri while signing of compromise dated 19.03.2014. Hence, qua the petitioner the criminal complaint no.3280 of 2015 is quashed.

In view of the aforesaid discussion, it is found that various criminal complaints as also the FIR are abuse of the process of Court. Still further, the dispute between the parties is found to be of civil nature and parties are already litigating before the Civil Court. Hence, criminal proceedings cannot be allowed to continue. Further, Sandeep Ohri, the petitioner in one of the petition is found guilty of suppressing the facts from the court while filing various criminal complaints.

In view of the aforesaid discussion, all the petitions are allowed. The complaints as well as summoning orders as also the FIR qua petitioners shall stand quashed.

**17<sup>th</sup> May, 2019  
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**(ANIL KSHETARPAL)  
JUDGE**

Whether speaking/reasoned  
Whether reportable

: Yes/No  
: Yes/No