

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

**CRM-M No.15137 of 2019 (O&M)
Date of Decision: 03.04.2019**

Pankaj Behl

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ankur Lal, Advocate for
Mr. Sanjiv Kumar Aggarwal, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition has been filed under Section 482 of the Code of Criminal Procedure (*for short 'Cr.P.C.'*) praying for quashing of FIR No.37 dated 26.01.2018, under Sections 406 & 420 of the Indian Penal Code, 1860 and Section 65 of the Information and Technology Act, 2008, registered at Police Station Urban Estate Rohtak, District Rohtak along with all consequential proceedings arising therefrom including report under Section 173 Cr.P.C.

Brief allegations against the petitioner are that he was working as Assistant Marketing (A.D.M.M.) from 15.05.2012 to 18.05.2016 with Hari Bhumi Newspaper (*for short 'Newspaper'*), assigned the duties of collecting advertisements from different Institutions, Establishments as well as general public and which were to be published in the Newspaper. Further alleged that the advertisements used to be booked and published on credit basis and petitioner was having the responsibility of collecting money as per the bills and to deposit the same in the accounts of Newspaper. Complainant was working as Manager with the Newspaper and petitioner was under obligation to clear his

account with him. In the month of January, 2016, certain shortcomings were noticed in the accounts relating to the petitioner and then matter was thoroughly enquired by the Advertisement Department of the Newspaper and they found numerous bunglings, which are detailed extensively in the FIR itself and the defrauded amount comes to ₹ 9,80,700/- by misusing the computer device. It is, thus, alleged that petitioner received the money in lieu of the booking of advertisements and which were wrongly shown in the computer and he embezzled and committed fraud with the Newspaper.

It is contended by learned Counsel for the petitioner that a bare reading of the FIR as well as report under Section 173 Cr.P.C., no offence is made out. Further contended that this Court has already granted the concession of pre-arrest bail to the petitioner vide order(s) dated 23.02.2018/09.08.2018 (P-4 colly.) while observing that no cash payment has been received by the petitioner; rather the same were made by way of cheques in favour of the Firm and not to him.

Heard learned Counsel for the petitioner and perused the paper-book.

Concededly, the allegations against the petitioner are for criminal breach of trust and cheating to the tune of ₹ 9,80,700/- during the period when he was serving with the Newspaper Establishment and after investigation in the matter, report under Section 173 Cr.P.C., which is running into more than 500 pages, has already been submitted and now the case is pending before the Court concerned for its consideration. The argument that petitioner was granted pre-arrest bail by this Court cannot be construed as final expression of opinion on

the merits of the case and moreover, those were only the contentions raised on behalf of the petitioner and not the observations of this Court, as is clear from the order(s) of this Court dated 23.02.2018/09.08.2018 (P-4 colly.).

Be that as it may, this is not the case that from bare reading of FIR, no offence is made out against the petitioner or that continuation of the proceedings against the petitioner are in any way misuse of the process of the Court or the same has been registered with substantiated bad faith. Moreover, the contentions raised on behalf of the petitioner are pleas of defence and the same can be raised at the appropriate time before learned trial Court.

Without commenting further lest it may prejudice the case of the petitioner, this Court does not deem it appropriate to quash the impugned FIR along with consequential proceedings while entertaining the present petition under Section 482 Cr.P.C.

In view of the above, there is no option except to dismiss the present petition.

Ordered accordingly.

However, it is clarified that the observations, made above, may not be construed as an expression of opinion on the merits of the case in any manner.

April 03, 2019

Gagan

**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>