

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 29315 of 2017

Date of Decision: 4.12.2019

Satbir Singh Shokeen

.....Petitioner

Versus

Satyabir Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Anil Rathee, Advocate
for the petitioner.

Mr. S.K.Yadav, Advocate
for respondent No. 1.

Mr. Rahul Mohan, DAG, Haryana.

HARNARESH SINGH GILL, J.

This petition has been filed for quashing of criminal complaint No. 30 of 2013/2016 dated 28.9.2013 under Sections 420, 427, 379, 380 IPC (Annexure P-1) and all the consequent proceedings arising therefrom including the summoning order dated 4.5.2016 (Anneuxre P-3).

In the complaint, it has been stated by complainant-respondent No. 1 Satyabir Singh that petitioner-accused was owner of Vishal Stone Crusher and as per oral agreement of lease dated 12.12.2012, the crusher machine and material was leased out to him by the petitioner on rent @ Rs. 1,35,000/- per month and Rs. 2,00,000/- as advance and the lease period was for one year. It was further alleged that when respondent No. 1 was successfully running the crusher, the petitioner being a powerful and influential person, with the help of goons, had taken the possession of the crusher illegally in the third week of March 2013. The matter was reported

to the police and when no action was taken, the present complaint was filed and the petitioner-accused was summoned under Section 420 IPC.

It has been argued by the learned counsel for the petitioner that no case under Section 420 IPC is made out. The dispute is of civil in nature and once the property is given on rent, thereafter if any dispute arises that is the domain of the Civil Court.

It has also been argued that the learned Magistrate referred the matter to police under Section 202 Cr.P.C. and as per the report dated 28.1.2014 (Annexure P-2), the dispute was about the rent and there was no written agreement between the parties and even then the petitioner has been summoned. He further submits that even the summoning order states that crusher was given without executing any agreement. The petitioner, when handed over the crusher to respondent No. 1, had no intention of cheating and the conduct of the petitioner was to be seen at that stage.

Learned counsel for the petitioner has relied upon the judgment of Apex Court in ***Mahadeo Prasad versus State of W.B. 1954 AIR (SC) 724*** where it has been pointed out that the intention and conduct of the person is to be seen at relevant point of time. *Mens rea* on the part of the accused is to be taken on record.

In the other judgment of the Apex Court in case of ***Ram Biraji Devi and another versus Umesh Kumar Singh and another 2006(3) R.C.R. (Criminal) 308***, the allegations were that the accused had agreed to sell a plot for Rs. 4.00 lacs by oral agreement and received advance payment of Rs. 80,000/- but later refused to execute written agreement and it was held to be civil liability.

Learned State counsel has argued that under Section 202

Cr.P.C., investigation was conducted. The stone crusher in question was rented out for Rs. 1,35,000/- per month from November 2012 to March 2013 and there was no written agreement. As per report dated 28.1.2014 (Annexure P-2) conducted by ASI Babu Lal, the dispute was regarding payment of amount but the possession of stone crusher was forcibly taken by the petitioner.

Learned counsel for respondent No. 1 has argued that the stone crusher was on rent with respondent No. 1 and when the police did not entertain his complaint, the present complaint was filed and the petitioner has been rightly summoned and even though the lease agreement was oral but possession of the stone crusher was with respondent No. 1. He further submits that respondent No. 1 had purchased material for crusher machinery and the receipts are placed on record. The rent was duly deposited in the account of the petitioner-accused.

I have heard the learned counsel for the parties and with their able assistance, have gone through the documents on file.

After hearing the arguments of both the sides in detail, I am of the view that the matter pertains to leasing out the stone crusher to respondent No. 1-complainant. On the directions of the Magistrate, inquiry was conducted by the police and as per inquiry report the dispute pertains to the amount due which does not fall in the ingredients of Sections 415 and 420 IPC. When the stone crusher was given on lease by the petitioner, there was no dishonesty or cheating nor there was any intention of inducement towards respondent No. 1.

The complaint and the summoning order do not show any guilty intention of the petitioner which are the essential ingredients of the

offence of cheating nor any *mens rea* on the part of the petitioner is established.

Accordingly, this petition is allowed. Complaint No. 30 of 2013/2016 dated 28.9.2013 under Sections 420, 427, 379, 380 IPC (Annexure P-1) and all the consequent proceedings arising therefrom including the summoning order dated 4.5.2016 (Anneuxre P-3) are quashed.

(HARNARESH SINGH GILL)
JUDGE

December 04, 2019
Gurpreet

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