

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

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**CRM-M-31367-2018 (O&M)
Date of Decision: 22.11.2019.**

Bijender Singh

....Petitioner.

Versus

State of Haryana and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Naveen S. Bhardwaj, Advocate for the petitioner.

Mr. Munish Sharma, Assistant Advocate General, Haryana
for respondent No.1.

Mr. Ketan Antil, Advocate for respondent No.2.

Surinder Gupta, J.

Respondent No.2-Vineet Beniwal has filed complaint Annexure P-1 levelling allegations against his wife, her co-accused Bablu alias Ajay Singh, Jagdish Constable, Manoj Kumar, Sunita, Naresh Godara and petitioner. In para No.2 of the complaint, it is stated that a Jeep bearing No.HRE-1541 was purchased by Anil nephew of the complainant in auction. The petitioner had taken that Jeep from Anil but did not return the same and had misappropriated it.

Learned trial Court summoned the petitioner for offence punishable under Section 406 IPC for misappropriation of abovesaid Jeep. Co-accused were also summoned for offence punishable under Section 506 IPC.

Learned counsel for the petitioner submitted that firstly the complainant has no locus standi to file the complaint as the Jeep is not owned by him. Secondly, he did not produce any evidence regarding ownership of the Jeep by his nephew Anil, who appeared as CW2. While appearing in the witness box, CW2-Anil has not uttered a single word about his title over the Jeep, giving the same to the petitioner and its misappropriation by the petitioner, as such, offence under Section 406 IPC is not made out against the petitioner.

Learned counsel for respondent No.2 has fairly conceded that the petitioner is not the owner of the jeep which is owned by Anil. When asked to point out in the statement of CW2 Anil (Annexure P5) that he had given the jeep to the petitioner who has not returned the same to him and misappropriated it, he further conceded that no such fact has been stated by Anil while appearing as CW2.

In view of the above facts, the continuation of the complaint for offence under Section 406 IPC against petitioner is sheer misuse of process of Court and I am of the considered opinion that to ensure the ends of justice, the complaint filed by respondent No.2 against the petitioner is liable to be quashed.

Ordered accordingly.

The petition is allowed and the complaint Annexure P-1 against the petitioner along with all subsequent orders is quashed.

(SURINDER GUPTA)
JUDGE

22.11.2019
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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No