

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38674-2013

Date of Decision: 01.05.2019

Balwant Singh and another

.. Petitioners

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. S.P.S. Sidhu, Advocate for the petitioners.

Ms. Monika Jalota, DAG, Punjab.

Mr. Mandeep Kaushik, Advocate
for respondent no.2.

...

Inderjit Singh, J.

Petitioners Balwant Singh and Sukhbir Singh have filed this petition under Section 482 Cr.P.C. for quashing of impugned order dated 06.04.2013 (Annexure P-3) passed by learned JMIC, Rajpura in case FIR No.65 dated 19.08.1999, registered at Police Station Ghanour, District Patiala, under Sections 418 and 420 of the Indian Penal Code and also order dated 12.09.2013 passed by learned Addl. Sessions Judge, Patiala dismissing the revision petition filed by the petitioners against the order (Annexure P-3), being illegal and against law.

Notice of motion was issued.

Learned State counsel as well as learned counsel for respondent No.2 have appeared and contested the petition.

From the record, I find that in the present case, FIR No.65 has been registered under Sections 418, 420, 477A, 166, 167 and 109 of the Indian Penal Code. The facts of the case as mentioned by ld. Judicial

Magistrate in the impugned order dated 06.04.2013 are as under:-

“The case of the complainant is that the complainant is a member of the Co-operative Agricultural Service Society, Salempur Jattan and his account number is 15/106. The business of the said society is to advance loans and sell fertilizers etc. to its members. The complainant received a loan from the said society for agricultural purposes. It has been further averred that on the application made by the society, the matter was referred for arbitration and on 04.08.1989, the Arbitrator gave an award against the complainant. The said award was passed by the Arbitrator in presence of Balwant Singh Secretary of the said Society and in absence of the complainant. The accounts are mainly maintained by the Secretary of the society and inspected from time to time by the Inspector of the Society. The dispute arose between the parties regarding the settlement of accounts as Balwant Singh Secretary and Sukhbir Singh Inspector were claiming interest at the higher rates. It has been further averred that as per award a sum of Rs.20,000/- was awarded against the complainant as principal Rs.1650/- as interest and Rs.250/- as costs, totaling Rs.21,900/-. The interest of Rs.1650/- was calculated upto 31.3.1989. The interest at the rate of 14.05% per annum was payable till the date of realization. The said award is treated as a decree passed by the Civil Court. Accused Balwant Singh Secretary and Sukhbir Singh Inspector have disobeyed the award. It has been further averred that in the month of July 1998, the above said accused Balwant Singh Secretary and Sukhbir Singh Inspector had demanded Rs.59,500/- by accounting for the interest @ 19.05% which is forged and false and only to extort money of complainant which was very excess amount from the award of the arbitrator.”

Cancellation report was filed in the said FIR and the complainant filed the protest petition. In the preliminary evidence, complainant examined CW1 Chanan Singh and CW2 complainant himself as a witness. The Ld. JMIC, Rajpura vide order dated 06.04.2013, summoned the accused Balwant Singh and Sukhbir Singh, who are the present petitioners for the offence punishable under Sections 418 and 420 of the Indian Penal Code. A revision was filed by the accused Balwant Singh and Sukhbir Singh before Id. Addl. Sessions Judge, Patiala, which was also dismissed vide order dated 12.09.2013.

Being aggrieved from the said orders, the instant petition has been filed.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record and impugned orders.

From the record, I find that the perusal of the complaint itself shows that no offence is made out. Balwant Singh is the Secretary of the Co-operative Agricultural Service Society and Sukhbir Singh is the Inspector. Admittedly, an award has been passed against the complainant. The allegation is that total amount as per award was Rs.21,900/-. The interest of Rs.1650/- was calculated upto 31.03.1989. The interest at the rate of 14.5% per annum was payable till the date of realization. As per the allegation, Balwant Singh Secretary and Sukhbir Singh Inspector had demanded the amount by accounting for the interest @ 19.05%. Even if the facts are taken as it is that the accused/petitioners in the discharge of their official duty have demanded more interest wrongly, even then, no offence is committed. There are no allegations that this excess amount is to go into their pockets. They were performing official duties and during this, they

have asked for the amount from complainant/respondent No.2. The complainant/respondent No.2 has remedy to challenge that order before the appropriate authority and can show that instead less amount is to be payable, but in no way, it amounts to commission of offence of cheating, etc. Perusal of the record shows that there are no sufficient grounds to proceed against the accused/petitioners from the averments of complaint as well as from the preliminary evidence. The order passed by Id. JMIC, Rajpura as well as judgment of Id. Addl. Sessions Judge, Patiala in the revision petition are not as per law and the same are set aside.

I find merit in the petition, the same is allowed. The impugned order dated 06.04.2013 passed by Id. Judicial Magistrate, 1st Class, Rajpura and judgment dated 12.09.2013 passed by Id. Addl. Sessions Judge, Patiala are set aside.

01.05.2019

*Jasmine Kaur***(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
No