

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

CRM No.M-6804 of 2014 (O&M)

Date of Decision: April 09, 2019

Haryana Financial Corporation Ltd. and others

...Petitioners

VERSUS

Khushal Chand

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Dhiraj Chawal, Advocate
for the petitioners.

None for the respondent.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.9 of 2010 under Sections 409, 408, 420, 467, 477-A, 427, 500, 201 read with Sections 34, 120-B and 109 IPC as well as summoning order dated 06.04.2013 and all subsequent proceedings emanating therefrom.

Notice of motion was issued. Earlier, learned counsel for the respondent was appearing but today, none has put in appearance on behalf of the respondent.

From the record, I find that a complaint was filed by Khushal Chand against 15 officers/officials of Haryana Financial Corporation Ltd. (HFC), under Sections 409, 408, 420, 467, 468, 477A, 427, 500, 201 read

with Sections 34, 120-B and 109 IPC. As per allegations in the complaint,

M/s Anu Poultry, is a partnership concern consisted of two partners namely Virender Mittal and Brij Lal Goel. The firm was paid ₹56.82 lakhs as loan by the HFC. Complainant Khushal Chand and one Anurag Mittal were guarantors of the said loan. The loan was granted for setting up poultry farm. As per allegations in the FIR, HFC took possession/management of running unit/business of the firm and the complainant was not associated in the proceedings. After sale of some assets of the firm, HFC sent a recovery certificate to the Collector, Karnal for recovery of the amount alleged to be due against the firm, from the complainant under the coercive provisions of Haryana Recovery of Money Act, 1979. The Collector, Karnal, got attached the land/property of petrol pump of the complainant and his officials, also harassed and tortured wife and son of the complainant, for which, the complainant made a complaint to the President of India and State Human Rights Commission, Haryana. The complainant had to file a civil suit at Chandigarh. It is further stated that the complainant was forced to deposit the amount claimed by the HFC as settlement amount i.e. ₹26,33,340/-. Even after the payment of the said amount, HFC refused to issue 'No Due Certificate'. It is also in the complaint that complainant filed the complaint under Consumer Protection Act before the State Consumer Commission, U.T., Chandigarh, which was allowed on 12.01.2009 in favour of the complainant for recovery of ₹19,57,472/-. The order of the Consumer Court was also relied upon in the complaint.

After hearing learned counsel for the petitioners and after going through the record, I find that petitioners acted in discharged of their official duties for the recovery of the default amount. It is admitted by the

loan. Mere fact that he has not been associated in the proceedings which have been initiated against the firm under Section 29 of the Haryana Recovery of Money Act, it does not amount to commission of an offence. The perusal of the whole complaint shows that no cognizable offence has been committed by the petitioners. Rather, they acted as per law in discharge of their official duties. Mainly, the complainant relied upon the observations given by State Consumer Forum in the Award passed by it, but learned counsel for the petitioners has brought it to the notice of this Court that in the appeal filed by HFC, National Consumer Dispute Redressal Forum, New Delhi, has set aside the award. The appeal preferred by HFC was allowed and one filed by the complainant was dismissed.

Keeping in view the above facts and circumstances of the present case and in view of the above discussion, I find that filing of complaint in the present case is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. Criminal complaint No.9 of 2010 under Sections 409, 408, 420, 467, 477-A, 427, 500, 201 read with Sections 34, 120-B and 109 IPC, summoning order dated 06.04.2013 and all subsequent proceedings arising therefrom, are hereby quashed.

April 09, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No