

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

CRM No.M-6160 of 2017 (O&M)
Date of Decision: February 08, 2019

J.P.Kundra

...Petitioner

VERSUS

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.D.Anand, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab
for the respondent-State.

Mr.Munish Puri, Advocate
for the complainant.

INDERJIT SINGH, J.

CRM No.4355 of 2019

The application is allowed, subject to all just exceptions.

Annexure P-8 is taken on record.

CRM No.M-6160 of 2017

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.149 dated 13.10.2014 under Sections 420 and 406 IPC registered at Police Station Division No.2, District Pathankot along with all other consequential proceedings arising thereof.

Notice of motion was issued. Learned State counsel as well as learned counsel for the complainant appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that FIR in the present case has been registered on the written application of Lavish Mahajan, who stated that he is in the business of imparting training to IT students. J.P.Kundra had taken an amount of ₹20,000/- in cash from them and got transferred ₹40,000/- in his PNB account for teaching and imparting training to students. On 09.06.2014, the training programme of the students was in Jalandhar but J.P.Kundra did not come to Jalandhar on that day. They called him but he did not pick up the call. Then they talked to him at 10.30 p.m., upon which, J.P.Kundra told that he had suffered an accident and will come on the next date but J.P.Kundra did not turn up on 10.06.2014. They again called him and asked him to refund ₹60,000/-, if he is not interested in the work. J.P.Kundra started delaying the matter and from his behaviour, complainant suspected that he has cheated them. The complainant prayed that legal action be taken against J.P.Kundra.

From the perusal of the FIR itself, it is clear that there was a contract between the complainant and the accused. As per FIR version, complainant paid ₹20,000/- in cash and transferred ₹40,000/- in bank account and J.P.Kundra was to train the students or take the classes. As per FIR itself, J.P.Kundra did not come for training on 09.06.2014 and when he was asked as to why he had not come, he replied that he has met with an accident and will come on the next date. This statement of J.P.Kundra explaining his absence, in no way, amounts to commission of offence. He stated that he has met with an accident and he will come on next date but on the next day i.e. on 10.06.2014, the complainant asked him to refund ₹60,000/-, if he is not interested in the work.

interested in giving teaching or refused for giving training. There is also nothing in the FIR that from the very beginning, the intention of the present petitioner is to cheat the complainant nor it can be so held from the contents of the FIR. Further, there is nothing in the FIR that money was paid at the inducement of J.P.Kundra and he had fraudulent intention at that time. Rather, in the FIR itself, it is written that complainant suspected that accused cheated them. Therefore, necessary ingredient, in the present case, to show commission of cognizable offence, is missing. At the most, it can be held as breach of the contract for which civil remedy lies.

At the time of arguments, it is contested that ₹20,000/- has not been paid in cash but this is finding of fact, which this Court, in these proceedings, need not to look into. It is admitted that ₹40,000/- has been deposited in the account of the company of the accused and not in the personal account of the accused and present accused is only to impart training on behalf of that company.

Keeping in view all these facts, I find that registration of the FIR 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. FIR No.149 dated 13.10.2014 under Sections 420 and 406 IPC registered at Police Station Division No.2, District Pathankot along with all subsequent proceedings, are hereby quashed.

February 08, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No