IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-8059-2018 (O&M)
Date of decision:29.01.2019

Ms. Manju Srivastava and another

.....Petitioners

versus

Harbax Singh Grewal

....Respondent

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Matinder Brar, Advocate for the petitioners.

Mr. J.S. Mehndiratta, Advocate for the respondent.

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Kuldip Singh, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of Criminal Complaint No.128/2017 dated 04.03.2017 titled as Harbax Singh Grewal vs. Ms. Manju Srivastava and others (Annexure P-9) pending before learned Judicial Magistrate Ist Class, Ludhiana and summoning order dated 17.01.2018 (Annexure P-10), passed in the above said complaint (Annexure P-9), whereby the petitioners have been summoned under Sections 465, 467, 468, 471 and 120-B of the Indian Penal Code.

Petitioner-Manju Srivastava was an Assistant General Manager at Punjab & Sind Bank situated at 6 Scindia House, Connaught Place, New Delhi, whereas, petitioner No.2-Payal Thakur was Senior Manager at Punjab & Sind Bank situated at 6 Scindia House, Connaught Place, New Delhi. The short facts which are required to be considered are that Sarabjit Kaur Gill-sister of the complainant and her husband H.P.S. Gill were carrying on business at Delhi under the name and style of M/s Solace Exports and obtained a credit facilities from Punjab & Sind Bank from its branch at 6 Scindia House, Canaught Palace, New Delhi in the year 1993. The properties of Sarabjit Kaur Gill and H.P.S. Gill were mortgaged with the bank. The facilities were subsequently got changed on 30.11.1998 and some other properties were mortgaged by the partners of the Firm M/s Solace Exports. In the year 2000, M/s Solace Exports again got cash credit limit enhanced on the request of the sister, the complainant and his wife gave the titled deeds of their properties situated at Ludhiana, to the Punjab & Sind Bank, Canaught Palace, New Delhi. Their signatures were also obtained on blank papers and registers. On 30.01.2015 some of the properties of wife of the complainant were released. However, the remaining title deeds were not received. Later on, both the present petitioners filed a petition before the Debt Recovery Tribunal at New Delhi in the year 2016. Complainant alleged that documents of guarantee are forged and do not bear signatures and that both the petitioners have filed a petition before the Debt Recovery Tribunal on the basis of forged and fabricated documents. On the basis of these allegations, after recording the preliminary evidence, impugned summoning order dated 17.01.2018 (Annexure P-10) was passed.

I have heard learned counsel for the parties and carefully gone through the file.

At the very outset, this Court is of the view that the loan was advanced at New Delhi. Title deeds were also submitted at New Delhi and documents were also allegedly signed on blank forms at New Delhi. Therefore, Ludhiana Court has no jurisdiction to try the present complaint. Secondly, the present petitioner No.1/Manju Srivastava-Assistant General

Manager and petitioner No.2/Payal Thakur-Senior Manager accused in the complaint, it is alleged that the bank forged the said documents. However, it is not specifically mentioned as to which official forged the said guarantee deed. The complainant admitted that he had submitted the title deeds before the Bank at New Delhi which amount to creating mortgage by deposit of title deeds. Therefore, even if the other documents are not there, the mortgage is still there. The petitioners claim that the signatures are forged on the said documents of guarantee. However, he does not deny that he had furnished the title deed by way of guarantee. The present complaint does not disclose any cause of action against the petitioners nor it is specifically alleged that they forged the said documents. The present petitioners merely filed proceedings before the Debt Recovery Tribunal. It is alleged by learned counsel for the respondent that the present petitioners fully knowing that documents are forged, used the same before the Debt Recovery Tribunal. If it is so, he may bring it to the notice of Debt Recovery Tribunal. The present case is nothing but misuse of process of law.

Accordingly, the Complaint No.128/2017 dated 04.03.2017 titled as Harbax Singh Grewal vs. Ms. Manju Srivastava and others (Annexure P-9) along with summoning order dated 17.01.2018, passed by learned Judicial Magistrate Ist Class, Ludhiana (Annexure P-10) are quashed.

Petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

29.01.2019
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Whether speaking/ reasoned: Yes
Whether Reportable: No