

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

**CRM-M-4753-2015 (O&M)
Date of Decision : 14.01.2020**

K.R.Saini

..... Petitioner

Versus

Chaman Lal

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Surmeet S.Sandhu, Advocate
for Mr. R.S.Ahluwalia, Advocate
for the petitioner.

Mr. B.S.Jaswal, Advocate
for the respondent.

RAMENDRA JAIN, J. (Oral)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing of complaint No.66/1/12 dated 17.11.2010, titled as Chaman Lal vs. K.R.Saini (Annexure P-1) and order dated 27.10.2012 (Annexure P-2), summoning the petitioner under Section 420 IPC.

Briefly, petitioner demanded a sum of Rs.5,00,000/- from respondent-complainant to get settled the dispute between mortgagee and Hargopal Badhan, which was transferred in the account of petitioner through RTGS by respondent. However, petitioner failed to fulfil his aforesaid promise. Resultantly, respondent requested the petitioner to refund his money whereupon petitioner refunded only Rs.1,00,000/- out of Rs.5,00,000/-. He refused to pay the balance amount.

Being aggrieved, respondent filed a complaint against the petitioner under Sections 420, 406 IPC (Annexure P-1).

In preliminary evidence, respondent Chaman Lal himself examined as CW1, besides Yogesh Kumar CW2, Pushkar Rawat CW3, Anoop Kumar CW4, Satish Kumar CW5 and Bawa Ram CW6.

After hearing learned counsel for respondent, learned Magistrate summoned the petitioner under Section 420 IPC vide impugned order dated 27.10.2012.

Learned counsel for petitioner, relying upon the judgment of Hon'ble Supreme Court in **National Bank of Oman vs. Barakara Abdul Aziz and another 2013 (122) AIC 249 and order dated 30.10.2013 of the Coordinate Bench in CRM-M-26644-2011, Arvinderpal Singh Gambhir vs. M/s Punjab Kashmir Finance Ltd.**, *inter alia* contends that learned Magistrate at Jalandhar has no jurisdiction to entertain and try the complaint of respondent against the petitioner. Moreover, petitioner is resident of Uttrakhand which is beyond the jurisdiction of Jalandhar. Impugned summoning order dated 27.10.2012 (Annexure P-2) passed by learned Magistrate is illegal, without conducting any inquiry under Section 202 Cr.P.C.

On the other hand, learned counsel for respondent refuting the above submissions, pleaded the legality and validity of impugned order of the learned Magistrate.

Having given thoughtful consideration to the rival submissions, this court finds the instant petition merits dismissal for the reasons to follow.

It is not disputed that Rs.5,00,000/- was transferred by

respondent-complainant to the account of petitioner from Jalandhar. Rs.1,00,000/- was refunded by the petitioner to respondent at Jalandhar. Therefore, prima facie, criminal court at jalandhar has jurisdiction to entertain and try the complaint of respondent. More so, learned Magistrate, thoroughly scanning the evidence of six witnesses, examined by respondent, summoned the petitioner only under Section 420 IPC, while exonerating him under Section 406 IPC, despite the fact that complaint of respondent was also under that Section. Exonerating the petitioner under Section 406 IPC, while summoning him under Section 420 IPC itself shows application of mind of learned Magistrate which amounts to inquiry under Section 202 Cr.P.C.

The facts and circumstances of the authority and the decision, referred to above, by learned counsel for petitioner are not identical to the facts of the present case. Therefore, the benefit of same cannot be given to the petitioner.

Dismissed.

14.01.2020
mamta

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No