204 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-23281-2020
DATE OF DECISION: 07.09.2020

MAHINDER KAUR AND ANOTHER …..Petitioners

versus

STATE OF HARYANA .....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. MunishBehl, Advocate for the petitioners.

Ms. Dimple Jain, AAG Haryana.

Mr. D.R. Bansal, Advocate for the complainant.

..

ALKA SARIN, J.: (Oral)

Heard through Video Conferencing.

This is the first petition under Section 438 of theCode of Criminal Procedure, 1973 for grantof anticipatory bail in case FIR No.183 dated01.08.2020 registeredunder Sections 420, 467&471 of IndianPenal Code, 1860 at Police Station Saha, District Ambala.

The FIR has been lodged on the basis that a fake E-way bill was generated for an amount of Rs.1,79,200/-. The counsel for the petitioner would contend an amount of Rs.9,600/- was paid as GST and hence there was no question of the E-way bill being fake. Qua the dishonoring of the cheques, learned counsel for the petitioner has contended that a complaint has already been filed under Section 138 of the Negotiable Instruments Act, 1881.

A status report has been filed by the State wherein it has been stated that the petitioner, for the purpose of creating false evidence in the case of dishonoring of cheques, had paid GST to the tune of Rs.9,600/-. It has been further been stated that when the forged and fabricated E-way bill is uploaded on the site of the Government, even though the material was not supplied, the site will depict the E-way bill and GST paid on it. It has further been stated in the reply that the complaint was marked to the Economic Offences Wing, Ambala City and was investigated and it was only after investigation that the FIR was registered. The State has also annexed with the reply the statement of one Mange Ram, the driver of the vehicle No. HR-37-C-2981 in which the goods alleged to have been sent by the petitioner were loaded. According to this, the said Mange Ram has stated that he never delivered any such goods to the complainant.

On similar lines, a reply has been filed by the counsel for the complainant. Additionally, in the reply filed by the complainant, it is being stated that the fake and forged E-way bill generated by the petitioner was rejected by the complainant on 05.01.2020 vide Annexure R-2/5. It has been further contended by the learned counsel for the complainant that once the bill stood rejected by him, the question of depositing the GST on the said bill did not arise.

I have heard learned counsel for the parties.

In the present case, though the counsel for the petitioner has vehemently contended that on the E-way bill generated by the petitionerGST was also deposited, however, learned counsel for the petitioner is not in a position to deny the document Annexure R-2/5 which is an electronically generated document which depicts that the E-way bill dated 04.01.2020 was rejected by the complainant on 05.01.2020. He is also not able to explain as to what was the necessity of depositing the GST on the rejected bill. The petitioner prima facie appears to have not only fabricated the E-way bill but has also, in order to create evidence, filed his GST returns on a bill which stood rejected by the complainant on the very next day.

In view of the above, the present petition is dismissed. It is, however, made clear that nothing observed herein is to be construed as an expression of opinion on the merits of the case.

(ALKA SARIN)
JUDGE

07.09.2020
Kv

Whether speaking/reasonable: Yes/No.

Whether reportable : Yes/No.