

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35230-2020 (O&M)

Date of Decision: 02.11.2020

Sanjay Bhati

...Petitioner

Vs.

State of Haryana and another

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Manoj Kaushik, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.
(Presence marked through video conference).

ARUN MONGA, J. ORAL

1. Petition herein is under Section 482 Cr.P.C. for quashing of an FIR No.517 dated 11.09.2019 registered under Sections 406, 420 and 120-B of IPC, at Police Station Sonipat City, District Sonipat.

2. Fir in question has been registered pursuant to a complaint filed under Section 156(3) Cr.P.C. Allegations, inter alia, are that on allurement of one Surat Singh Khatri, complainant Sunil Kumar invested Rs.2,48,200/- in an investment scheme namely "Bike Boat" promoted by M/s Gravit Innovative and Promoters Ltd. The complainant was told that the amount was to be invested in the business of bike taxis and the same would yield returns @ Rs.9765/- per month. He was issued receipts dated 29.11.2018 and 30.11.2018 for Rs.62,100/-, Rs. 62,100/- and Rs. 1,24,000/- respectively with the promise of monthly returns. When no monthly credit was given, complainant contacted accused Surat Singh Khatri. Complainant was instead given a forged cheque of one Karan Pal Singh. On enquiries complainant came to know that

accused Sanjay Bhati, Surat Singh Khatri and PardeepDubey are the promoters of aforesaid company. In connivance, they cheated many innocent persons of their hard earned money. The accused instead of returning money, rather criminally intimidated the complainant. Hence the FIR.

3. Upon service of advance notice of petition, Mr. Bhupender Singh, DAG Haryana has joined the proceedings through Video Conferencing. He submits that investigation in the case is complete. Callan has already been presented in the Court. Trial is slated to commence in due course. He further submits that petitioner is nominated in more than 50 cases of similar nature as he cheated and duped innocent persons of their hard earned money.

4. Learned counsel for the petitioner, inter alia, argues that offences under Section 406 and 420 IPC are ante-thesis in nature. The same cannot be invoked simultaneously. According to him, in the beginning the business of providing bike taxi to the residents was running smoothly with the assured return to all the investors. There was no false promise by the accused. However, due to subsequent events of decision of giving lucrative offers/subsidy to promote e-bikes by the Government, there was considerable downfall in the demand of bike taxis, which runs on petrol and not cost efficient in compared to e-bikes, as a result of which business got derailed and they suffered losses. Due to heavy losses, the returns to the investors could not be made, as promised, resulting into multiple FIRs against the Company.

5. Learned counsel pleads that petitioner resigned from the post of Director of the Company on 18.11.2018. Necessary information in this regard was displayed and communicated to the concerned Department. Hence continuance of prosecution against petitioner is abuse of process of law.

6. On the other hand, learned State counsel resists the prayer of petitioner. He submits that there are specific allegations against the petitioner of having cheated

the innocent people and misappropriation of amount invested by them. According to him, the contentions ibid are to be adjudicated during trial.

7. Having heard learned counsel for the parties, I am of the opinion that no interference is warranted, at this stage when investigation is complete and challan has already been filed. Powers under Section 482 Cr.P.C. ought to be exercised sparingly, with circumspection and in rare cases. Discretion under Section 482 Cr.P.C. is an exception and not a rule. It has to be exercised only to prevent abuse of the process of Court and to secure the ends of justice, where the Court is of the view that initiation or continuance of criminal proceedings amounts to abuse of the process of Court.

8. It is also equally settled that this Court while exercising its jurisdiction under Section 482 Cr.P.C. does not conduct a trial or appreciate evidence. It is limited to cases which compel intervention to prevent palpable abuse of legal process. It is intended to secure justice but not to scuttle justice at the threshold.

9. Adverting to the facts of the instant case, no grounds are made out to interfere. Instant petition is dismissed with liberty to the petitioner to raise all the pleas taken in the present petition before the trial Court at an appropriate stage.

NOVEMBER 02, 2020

Jiten

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable

Yes/No