

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

**CRR No. 84 of 2021
Reserved on : 22.03.2021
Pronounced on : 24.03.2021**

Deepak Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sachin Rai Vaid, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for setting aside the order dated 08.01.2020, vide which the trial Court has framed charges against the petitioner/accused under Sections 343, 379-A, 420, 506, 120-B of the IPC and Section 66-D of the Information Technology Act, 2000 (*for short 'IT Act'*).

Learned counsel for the petitioner argued that as per allegations in the FIR, registered at the instance of complainant Titova Elana, a Russian National, it is stated that she and the petitioner were having some love affair and she came to India and met petitioner at Indira Gandhi International Airport in Delhi. The petitioner brought her to Chandigarh and she lived with petitioner from 18.07.2019 to 24.07.2019 at Panchkula and Zirakpur and she also stayed in a hotel at Panchkula. During this process, the petitioner had snatched her mobile phone and money in dollars. The police, after registration of the case, investigated the same and later on added the

relevant provisions of the IT Act as well.

Learned counsel further argued that a bare perusal of the FIR would show that the offence under the provisions of IT Act is not made out.

Learned counsel further argued that even the offences under Sections 343, 379-A IPC are not made out as it is the case of the complainant that she came to India of her own and thereafter, she stayed with the petitioner.

Learned counsel further argued that the allegations of forcibly taking away 14606 dollars from the victim/complainant is also not made out.

After hearing learned counsel for the petitioner and going through the contents of the FIR as well as the report under Section 173 Cr.P.C., I find that the allegations against the petitioner/accused are that while staying in a hotel room, he hit his head against the wall in the room and took a fork and put the same on the throat of the victim and extended threat that he will kill himself if the victim does not give him the money and in that process, on 21.07.2019, he took away 14606 dollars and left the hotel after snatching the Samsung mobile phone of the victim.

A perusal of the report submitted under Section 173 Cr.P.C. shows that the petitioner, in conspiracy with his friend/co-accused Sandeep @ Sandy, had snatched the aforesaid money and mobile phone from the victim. It has also come in the evidence that after the petitioner was arrested, 200 US dollars were recovered from him including the RC of the motorcycle, which was used in the commission of crime.

As per the disclosure statement also, the petitioner got recovered currency notes of Rs. 3000/- and later on, also got recovered the

said mobile phone of the victim, which was broken by the petitioner in order to destroy the evidence. Thereafter, the petitioner recorded a second disclosure, subsequent to which, the balance of 14406 dollars was also got recovered from Panchkula and the mobile phone was sent to DITAC Lab for examination, therefore, on completion of investigation, the police found that the offence under Section 66C of the IT Act was made out and the same was also added during investigation while submitting report under Section 173 Cr.P.C.

A perusal of the FIR and the report under Section 173 Cr.P.C. clearly makes out a case, where a foreign national has alleged that her money and the mobile phone were snatched by the petitioner by extending threat to life, which the petitioner got recovered by making his disclosure statements and, therefore, at this stage, the trial Court has rightly framed charges under the provisions of the relevant sections as noticed above.

Moreover, it is a well settled principle of law as held by Hon'ble Supreme Court in *State of Andhra Pradesh vs. Goloconda Linga Swamy and another, 2004 (3) RCR (Crl.) 831* that at the time of framing of the charge, only *prima facie* evidence is to be seen.

Accordingly, finding no merit in the present petition, the same is dismissed.

24.03.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No