

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

CRM-M-6328 of 2021

DECIDED ON: 11th FEBRUARY, 2021

Shiv Kumar Goyal

.....PETITIONER

VERSUS

State of Punjab and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Vishal Moudgill, Advocate for petitioner.

Ms. Samina Dhir, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This petition is filed seeking direction to official respondents arrayed as respondents No. 1 to 4 to register FIR under Sections 403, 406, 417, 419, 420, 465 and 468 and other relevant provision of IPC as the private respondents have committed cheating.

The relevant facts are that the petitioner entered into as many as four Contracts with Tushar Kanoi @ M. Dawson (respondent No.5) for supply of alternator scrap bearing Copper Scrap barley, Aluminium scrap tense, Iron scrap.. The talks were held through respondent No. 7-Sharukh Khan. In pursuance to the contract the material was supplied vide 7 invoices annexed with petition as Annexures P1 to P7. There was a dispute with regard to the quality of material supplied. The petitioner filed a complaint dated 16.3.2020 with Senior Superintendent of Police, Fatehgarh Sahib. The present petition is filed for directions to act upon the complaint and to get registered FIR.

During course of arguments it has come to the notice of the Court that the petitioner had approached National Company Law Tribunal (NCLT) on 1.1.2020 for breach of contract for not supplying the material as per specification of the contract.

Learned counsel for the petitioner submits that the matter is pending before NCLT and has not proceeded further due to Covid-19 situation. The petitioner moved a complaint dated 16.3.2020.

Prima-facie the dispute is contractual i.e. civil dispute. The petitioner has already availed remedy before the National Company Law Tribunal. Now there is an attempt to give the entire dispute tinge of criminal proceedings.

It would be pertinent to note that material fact regarding pending of case with NCLT has been withheld in pleading before this Court. The same is also not mentioned in complaint made before the Senior Superintendent of Police, Fatehgarh Sahib.

No case is made out for interference under Section 482 Cr.P.C. Considering the conduct of the petitioner that material fact has been withheld, the petition is dismissed with costs of Rs.25,000/-.

11th FEBRUARY, 2021

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**(AVNEESH JHINGAN)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>