

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

CRM-M-39281-2020

Date of Decision :- 25.02.2021

Amit Lodha and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr.R.S. Rai, Senior Advocate with
Mr.Gautam Dutt, Advocate
for the petitioners.

Mr.Karan Garg, AAG, Haryana.

Mr.B.S. Rana, Senior Advocate with
Ms.Divya Bajaj, Advocate
for respondent No.2.

H.S. MADAAN, J.

By way of filing the present petition, petitioners/accused seek quashing of FIR No.63 dated 17.2.2020 under Sections 420, 406, 120-B, 34 IPC, registered with Police Station Dharuhera, District Rewari and all the subsequent proceedings arising therefrom.

The main plea put forward by the petitioners/accused is that they had placed five purchase orders with complainant/respondent No.2, three of them i.e. dated 1.7.2019, 3.8.2019 and 9.9.2019 were earlier to order dated 24.9.2019 passed by National Company Law Tribunal, Mumbai, in terms of which directorship of the petitioners/accused was

suspended and a receiver had been appointed to look after affairs of the company. The petitioners/accused had sent a communication to complainant on 23.10.2019 that they would not accept any material and as such no material was supplied by the complainant to petitioners/accused thereafter. The complainant has lodged the FIR in question on the basis of false allegations and the same is required to be quashed.

Whereas according to the complainant, the petitioners/accused while placing the purchase orders had not disclosed to the complainant that proceedings were pending before National Company Law Tribunal, Mumbai. Even otherwise, three orders had been placed before passing of order dated 24.9.2019 by National Company Law Tribunal, Mumbai and when purchase orders No.4 and 5 were placed, the petitioners had received goods worth Rs.35,54,068/- on 5.11.2019, in that way, the intention of petitioners/accused was dishonest right from the beginning. The petitioners had issued cheques in favour of the complainant, which were dishonoured.

Admittedly, the case is at the stage of investigation. Only on completion of investigation, it can be found out whether the allegations in the FIR have substance or otherwise. If the Investigating Officer is able to collect sufficient material showing commission of cognizable offences by the petitioners, only then they would be sent up to face trial, otherwise the investigating agency may prepare a cancellation report in the matter and file it in the Court. The petitioners/accused have got an opportunity to raise all the pleas before the Investigating Officer, who is expected to consider the same during the course of investigation to find out as to whether commission of any cognizable offence on the part of

petitioners/accused is there in light of allegations made in the FIR and evidence collected during the investigation.

Even otherwise, the petitioners/accused can move application in the trial Court for discharge taking all the pleas available to them or raise the pleas at the time of consideration on charge and the trial Court is expected to consider such pleas and to pass appropriate order in accordance with law. Furthermore such pleas can be put to the prosecution witnesses during trial, raised by the petitioners/accused while being examined under Section 313 Cr.P.C. and evidence can be led by them in defence.

I find that keeping in view the facts and circumstances of the case the petitioners should first approach the trial Court since some of the objections sought to be taken are in the shape of mixed questions of facts and law, which may require leading evidence by the parties also, which can be done in the trial Court only. Section 482 Cr.P.C. saves the inherent powers of the High Court, which can be used to prevent abuse of process of any Court or otherwise to secure the ends of justice.

A complete mechanism being available under law for redressal of grievances of the petitioners/accused, the petitioners cannot possibly adopt a short-cut route to have prompt decisions by filing the petitions under Section 482 Cr.P.C. This provision is not panacea for all the ills, grouses and grievances of a litigant. If the law does not provide any recourse to a litigant for redressal of his grievances then he may knock at the door of this Court and his grouse can be heard and dealt with in accordance with law but this Court cannot possibly take upon itself the task of resolution of every dispute when the proper forum is the Court

down in hierarchy, just because a litigant wants it to be done in a hope that a prompt result would be there.

The lodging of the FIR by the complainant does not come out to be abuse of process of law and it cannot be said that the FIR does not disclose commission of any cognizable offence or deserve to be quashed for any other plausible reason.

Therefore, the petition is disposed of accordingly relegating the petitioners to the remedy of taking all the pleas before the Investigating Officer and if challan is filed before the trial Court raising all the pleas before the trial Court at appropriate stage and the trial Court would deal with such contentions, in accordance with law.

25.02.2021
Brij

(H.S. MADAN)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No