

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM nos.23751 & 23753 of 2021 in/and  
CRM-M-39930 of 2020 (O&M)  
Date of decision:3.9.2021

Hardeep Singh

... Petitioner

versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.P.S.Khurana, Advocate,  
for the petitioner  
Mr.Rana Harjasdeep Singh, DAG, Punjab  
Mr.Manuj Nagrath, Advocate,  
for respondent no.2.  
...

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conferencing.

CRM- 23751 of 2021

Vide this application, advancement of the date of hearing in the accompanying petition had been sought by the petitioner, with no notice however issued in it, as counsel had not come present on the last date of hearing.

Notice in the application.

Mr.Rana Harjasdeep Singh, learned DAG, Punjab, accepts notice at the asking of the court on behalf of the respondent-State, with Mr.Manuj Nagrath, Advocate, accepting notice on behalf of respondent no.2.

Though initially learned counsel for the applicant had stated that he would not press this application but only the application seeking a stay on the proceedings before the trial court, however, when this court observed that staying proceedings before that court at this stage would require the matter to be considered at length, he very fairly does not object to the accompanying petition itself being heard today.

Consequently, the application is allowed and the date of hearing in the accompanying petition is advanced to today itself.

CRM-M-39930 of 2020

By this petition, the petitioner seeks quashing of FIR no.26 dated 27.1.2020, registered at Police Station City Khanna, District Ludhiana, alleging therein the commission of offences punishable under Sections 420/406/506 of the IPC.

He further seeks a stay on the proceedings before the trial court during the pendency of the petition.

Learned counsel for the petitioner first points to the investigation report submitted by the SP (Investigation), Moga, to the SSP, Moga, on 17.4.2018 (copy Annexure P-4), to submit that the SP himself had found that the amount of Rs.7.00 lakhs as was deposited in the account of the firm run by the petitioner, was in lieu of spare parts sold, and not on account of the tractor sold to the complainant. (Though it has been pointed out by this court that in fact that was the stand taken by the petitioner before the investigating officer; after which he wishes to point to the inquiry findings as contained in paragraph 6 of the said report).

It is to be of course noticed that in the short reply filed by way of an affidavit of the DSP, Police District Khanna, dated 18.3.2021, to the main petition itself, it has been stated in paragraph 1 thereof that the complainant had given a cheque of Rs.1.00 lakh from his account on 16.4.2015 in the name of the petitioners' firm, i.e. M/s Shergill Agro Agency, after which he paid Rs.50,000/- in cash to the said agency, with the tractor delivered to the complainant by the agency.

Thereafter he is stated to have again paid Rs.2.30 lakhs via a cheque drawn on the Kotak Mahindra Bank to the said agency; and thereafter on 22.7.2015 he again got deposited Rs.7.00 lakhs through Iqbal Singh in the account of the agency, i.e. M/s Shergill Agro Agency, in its Axis Bank account no.322010200000557.

It is thereafter stated in the reply that thus the entire amount of Rs.10.80 lakhs (as was the sale consideration for the tractor), had been paid by the complainant to the aforesaid company/firm.

Obviously therefore, if there is anything in the earlier investigation report to the effect that the amount of Rs.7.00 lakhs as was deposited by Iqbal Singh (who, upon a query put to learned counsel for the petitioner, he does not deny was an agent for the petitioners' firm), on account of any spare parts sold/purchased, instead of the tractor admittedly sold by the petitioners' agency to the complainant, in the opinion of this court that would be a matter of evidence to be led before the trial court, with therefore the FIR not 'quashable' on the aforesaid facts.

It is also to be noticed by this court that on an earlier date of

hearing, a gazetted officer of the respondent-State had been directed, by this court, to file an affidavit, annexing therewith the statements stated to have been made by Iqbal Singh, with learned counsel contending that it was to the effect that the amount of Rs.7.00 lakhs as was deposited by him was on account of spare parts and not on account of the tractor sold by the petitioners' agency/firm to the complainant.

With the affidavit of the DSP, dated 18.3.2021 (i.e. before the order passed by this court on 26.3.2021), two statements as are stated to have been made by the aforesaid Iqbal Singh before the police, dated 21.1.2019 and 21.11.2019, have been annexed (though the translation of the second statement does not carry any date, with the said date having been seen only from the vernacular copy, which actually may not be the actual date because the said date is seen to be written below the attestation of the Notary Public).

Mr.Khurana submits that the said statements are not the ones which the petitioner refers to, wherein Iqbal Singh had stated that actually he had paid the money into the account of the petitioners' firm in lieu of spare parts sold and not on account of tractor sold to the complainant.

He therefore submits that in fact the order of this court dated 26.3.2021 has not been complied with by the respondent-State.

[Mr.Nagrath, learned counsel for respondent no.2, on the other hand submits that the complainant had sold his Fortuner car for an amount of Rs.15.00 lakhs (which he submits has also been found to be so by the investigating agency), out of which he paid Rs.7.00 lakhs to Iqbal Singh (as

the agent of the petitioners' firm, to be paid to the firm in lieu of sale of the tractor to him).]

Mr.Khurana next submits that in fact an FIR was earlier got registered at the instance of the petitioner, making allegations against Iqbal Singh, to the effect that he had duped the petitioners' firm, with that FIR being dated 23.6.2017, and with the FIR registered against the petitioner by the complainant being one dated 27.1.2020.

He therefore submits that on account of *mala fides*, Iqbal Singh in collusion with the complainant, got the FIR registered against the petitioner, because actually the complainant had not deposited the entire sale consideration of the tractor, with the tractor already having been delivered to him; and consequently the FIR, on the grounds of *mala fides* alone, deserves to be quashed.

Last, he submits that the delivery of the tractor having been made in the year 2015 but the complaint by the complainant having been made in the year 2019, leading to the registration of the FIR in January 2020, itself shows that the complaint was made on account of *mala fides*.

Having considered all the aforesaid arguments, what this court obviously cannot ignore is that as per the reply of the investigating agency itself (with the report under Section 173 of the Cr.P.C. already submitted before the trial court), Rs.7.00 lakhs is stated to have been given by the complainant to Iqbal Singh, who in turn deposited the same in the account of the petitioners' firm.

Hence, even though this court had directed that the said

statement of Iqbal Singh be placed on record, (contended to be stating that he had deposited the amount on account of spare parts and not on account of sale of the tractor), that would make no difference, because even had those statements been on record in these proceedings, in my opinion it would still require proper evidence to be led before the trial court as regards the purpose for which the said amount of Rs.7.00 lakhs was deposited.

Consequently, I would see no reason to entertain this petition any further, let alone the application seeking a stay on proceedings before the trial court.

Consequently the petition is dismissed, as is naturally the application seeking a stay on proceedings before the trial court.

Yet, by way of abundant caution, it is made clear that nothing stated in the orders passed by this court in this petition, would be taken by the trial court into consideration at the time of the trial, with the guilt/innocence of all accused to be determined wholly and only on the basis of evidence led before that court.

3.9.2021  
pk

( AMOL RATTAN SINGH )  
JUDGE

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No