

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-7701-2019(O&M)

Date of Decision:-28.09.2022

Rattan Lal Swami.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. S.S. Nain, Advocate for the Petitioner.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the present petition is for quashing of order dated 04.01.2014 passed by the ACJM, Narnaul (Annexure P-1) vide which the accused/respondent no.2 has been ordered to be discharged and the order dated 12.07.2017 passed by the Additional Sessions Judge, Narnaul (Annexure P-2) vide which the revision petition filed against the said order has been dismissed.

2. The brief facts of the case are that the present complaint came to be filed by the petitioner-complainant with the allegations that he was the registered owner of a truck bearing registration number J-14GA-1092 engine number LWH282432 and chasis number LWE536806 which had been purchased by him from Rajesh Motors (Rajasthan) Pvt. Limited. The said vehicle was got financed from Indus Ind Bank limited. As per the allegations in the complaint, on 26.04.2008 while the complainant was

coming from Manesar after unloading gravel and reached Nai Wali Chowk, Rewari then the accused/respondents gave him signal to stop the truck. On his stopping the truck they told him that they wanted to go with him to Narnaul. The accused were known to him. He allowed both the accused to board the truck. When they reached Ateli then he informed the accused that he would be staying at his house and would travel to Ilakhar in the morning. The accused also stated that they would stay with him and would go to the same village in the morning. The accused stayed over at his house. His son Pardeep Kumar and one Anil Kumar son of Meena Ram resident of village Gurjarwas were present at his house. After taking their meals they slept in the house. In the morning he found that his truck which had been parked opposite the house containing all his documents and an amount of Rs.15,000/- were missing along with the accused. Thereafter he along with his son Pardeep and said Anil visited village Ilakhar and asked accused no.1/respondent no.2 about the truck and he answered that he had no knowledge of the same. Consequently, an application was moved to the Police Station Ateli for the theft of his truck but no action was taken. He searched for his truck at his own level and ultimately received an intimation on 10.05.2008 that his truck had been parked in the filter park of accused no.1/respondent no.2 and the same was in the possession of accused no.2/respondent no.3. On his visit there he found his truck parked but the accused refused to return the same and threatened to kill him. Therefore, the present complaint under Section 379 IPC came to be filed.

3. In preliminary evidence the complainant/petitioner examined himself as PW-1 and placed reliance on documents Ex.C-1 to Ex.C-12.

Based on the preliminary evidence the accused were summoned

to face trial under Section 379 IPC vide order dated 08.09.2008 passed by the JMIC Narnaul.

Meanwhile, accused Rajesh/respondent no.3 was declared proclaimed offender on 09.01.2012.

4. In pre-charge evidence PW-1 Rattan Lal, Complainant/petitioner reiterated the averments made in the complaint. PW-2 Vijay Kumar and PW-3 Anil Kumar supported the version of the complainant. PW-4 Vijay Singh proved documents Ex.PW-4/A to Ex.PW-4/F. Based on the evidence led and the arguments addressed by both the sides the court came to the conclusion that there was a money dispute between the parties and that the complaint had been instituted to pressurize the accused. In the circumstances, the accused Sarjeet Singh-respondent no.2/accused no.1 came to be discharged vide judgment dated 04.01.2014 (Annexure P-1).

5. The petitioner preferred a revision petition before the court of Additional Sessions Judge, Narnaul and the said petition also came to be dismissed vide order dated 12.7.2017 (Annexure P-2).

6. The aforementioned two orders are impugned in the present petition.

7. The Counsel for the petitioner contends that the findings of the courts below that no offence has been committed is based on the erroneous appreciation of the evidence led. In fact, the petitioner had approached the police station on 27.04.2008 and it is only thereafter when no action was taken that the present complaint came to be filed on 15.5.2008. The findings during the course of police inquiry that the petitioner had sold a truck to one Sarjeet Singh-accused/respondent no.2 for a consideration of

Rs.6,60,000/- was baseless. In fact the petitioner had sought refinance of the truck from Indus Ind Bank Pvt. Ltd. Shahpur, Rajasthan on 26.02.2008 and the petitioner-complainant had deposited the first installment of the refinanced amount on 22.04.2008 and 18.06.2008. He had also got the vehicle insured. In view of the said facts, the question of having sold the truck to Sarjeet Singh does not arise. He further contends that the report under Section 202 Cr.PC is an erroneous one with a view to help the accused party and a cumulative analysis of the facts and circumstances would only lead to the conclusion that Sarjeet Singh was in unauthorized possession of the vehicle and had no authority to alienate the same further to Rajesh and, therefore, the offence under Section 379 IPC was *prima facie* made out and the question of discharge did not accrue.

8. I have heard learned counsel for the petitioner at length.

9. Firstly, the truck is said to have been taken out from the custody of the complainant on the night intervening 26/27.04.2008. The applicant is said to have visited the police station on 27.04.2008. There is absolutely no evidence of a complaint having been made regarding the theft. Further once no action was taken by the police, no attempt was also made to approach the senior officers of either states i.e. Haryana or Rajasthan with respect to the allegations levelled by petitioner about the theft of the truck. This casts a doubt in the complainant's version. In fact, a perusal of the report under Section 202 Cr.PC (Annexure P-5) would show that Sarjeet Singh had purchased the truck for a sum of Rs.5,40,000/- and an amount of Rs.1,50,000/- had been paid to Rattan Lal Swami-petitioner while the balance amount was to be paid by Sarjeet Singh-respondent no.2 to the finance company. Later Sarjeet Singh sold the truck to Rajesh son of Amar

Singh because of which a dispute arose between the parties. Therefore, it appears that the present complaint was filed with a view to pressurize the respondents/accused and in fact there was a money dispute between the parties. Further, the various documents referred to in the present petition cannot be examined at this stage as they do not form a part of the record and as such cannot be relied upon for the decision of the present case.

10. In view of the foregoing discussion, I find no merit in the present petition and the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

September 28, 2022
Vinay

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