IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Date of Decision: *March 11th, 2022*

Criminal Miscellaneous No.M-10219 of 2017

Navrattan Garg & another

..... Petitioners

VERSUS

..... Respondent

State of Haryana

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CORAM: **HON'BLE MR. JUSTICE SANT PARKASH**

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PRESENT: - Mr. Vivek Suri, Advcoate, for the petitioners.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

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Sant Parkash, J

This petition has been preferred under Section 482 Cr.P.C. for quashing FIR No.156 dated 29.11.2016 (Annexure P-1) under Section 4 of The Prevention of Money Laundering Act, 2002 (for short, 'Act') read with Sections 420, 120-B IPC, registered with Police Station, Sector 20, Panchkula.

The petitioners had been apprehended by the police party as they were found in conscious possession of ₹ 20 lac, having currency notes of denomination of ₹ 2,000/-, ₹ 1,000/- and ₹ 500/- respectively, for getting them exchanged in Sector 20, Panchkula, without there being any documentary evidence, since the currency notes of denomination of ₹ 500/- and ₹ 1,000/- were declared to be illegal tender.

Learned counsel for the petitioners contended that FIR registered against them is liable to be quashed as money laundering is a special statute in which police has no role to play and the investigation was to be conducted by the Director or an authority appointed by Central Government under special order. The petitioners were only exchanging old currency. Even during the course of investigation, Section 4 of the Act was deleted and on explaining the source of income to the Income Tax Department, the money recovered from the petitioners was refunded with interest.

Learned counsel further contended that provisions of Section 420 read with Section 120-B IPC are not attracted in the facts & circumstances of the case because petitioners have not cheated or conspired with anyone. The currency notes belonged to the petitioners. Thus, the aforesaid provisions of Indian Penal Code had been wrongly invoked by the local police.

Learned counsel for the respondent - State has vehemently opposed the payer made in the petition and while reiterating the contents of reply, has contended that petitioners had no authority to deal with the currency which was banned by the Government and thus, exchanging of banned currency was illegal.

I have heard learned counsel for the parties and perused the record.

Admittedly, the investigation was conducted by police of Sector 20, Panchkula. The first question arising for adjudication is whether local police was really competent to investigate the matter? To properly umpire this question, Section 2(na) of the Act needs to be gone into, which reads as under:-

> "**2. Definition.-** (1) In this Act, unless the context otherwise requires,-
>
> (na) "investigation" includes all the proceedings under this Act conducted by the Director or by an authority authorised by the Central Government under this Act for the collection of evidence."

A perusal of aforesaid provision makes it crystal clear that local police was not competent to investigate the matter, as only a Director or an authority authorised by the Central Government was competent to investigate or collect evidence. Thus, this Court is of the opinion that the aforesaid essential ingredient to attract the offence of money laundering was absent and the proceedings are liable to be quashed. Be that as it may, the provisions of Money Laundering Act were deleted during investigation.

So far as, invoking of provisions of Section 420 IPC is concerned, in order to constitute offence punishable under Section 420 IPC, the prosecution has to prove essential ingredients of offence of cheating as defined in Section 415 IPC. To scrutinize the ingredient(s) of cheating and its punishment, Sections 415 and 420 IPC are reproduced hereunder:-

> "**415. Cheating.-** Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which

act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Explanation.- A dishonest concealment of facts is a deception within the meaning of this section.

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420. Chating and dishonestly inducing deliver of property.- Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable fine."

A bare perusal of Section 415 IPC clearly depicts essential ingredients; (1) deception of any person; (2) (a) fraudulently or dishonestly inducing that person; (i) to deliver any property to any person; or (ii) to consent that any person shall retain any property; or (b) intentionally inducing that person to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property. As per Section 420 IPC, punishment, in case of fulfillment of above ingredients, shall be imprisonment for a term which may extend to seven years alongwith fine.

In the case in hand, it is established during investigation that the alleged currency, undoubtedly, belonged to the petitioners. Moreover, the Income Tax Department having satisfied about the source of income, returned the amount to the petitioners with interest. Admittedly, the petitioners intended to exchange the old currency with general public, however, prosecution has failed to establish on the basis of any documentary evidence that public had been cheated by the alleged act of petitioners. Under the circumstances, the aforesaid crucial component is absolutely lacking in the prosecution version. In the considered view of this Court, under no stretch of interpretation, a conclusion can be reached that any offence under Section 420 IPC is made out from the story put-forth by the prosecution.

In view of aforesaid discussion, the petition is allowed. FIR No.156 dated 29.11.2016 (Annexure P-1) under Section 4 of the Money Laundering Act, 2002, read with Section 420, 120-B IPC, registered with Police Station, Sector 20, Panchkula, is hereby quashed alongwith consequent proceedings.

(Sant Parkash)
Judge

March 11th, 2022
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Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No