

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

119

CRM-M-9276-2020 (O&M)

Date of Decision: 19.04.2022

REETA KUMARI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Ritu Punj, Advocate,
Legal Aid Counsel,
for the petitioner.

HARNARESH SINGH GILL, J.

Challenge in the present petition is to the order dated dated 14.06.2019 (Annexure P-5), whereby charges under Sections 408, 420 and 506 IPC were framed against the petitioner by the learned Judicial Magistrate, 1st Class, Faridabad and the order dated 17.01.2020 (Annexure P-8) passed by the learned Additional Sessions Judge, Faridabad, vide which the revision petition preferred by the petitioner was dismissed.

Learned counsel for the petitioner submits that the petitioner had filed an application for discharge under Section 239 read with Section 245 Cr.P.C., but the same was dismissed vide order dated 14.06.2019 passed by the Judicial Magistrate, Ist Class, Faridabad, and vide order of the even dated i.e. 14.06.2019, the charges were framed against the petitioner under Sections 408, 420, 506 IPC and that revision against the said order,

was dismissed by the learned Additional Sessions Judge, Faridabad on 17.01.2020, without taking into consideration the pleas taken and arguments raised on behalf of the petitioner.

It is further submitted that the petitioner joined Company, namely, M/s Alchem International Limited, Faridabad as a Receptionist on 17.05.2013 and worked as such till 16.04.2014 and that totally false and baseless allegations have been levelled in the FIR that the petitioner had been entrusted with the work of attending of receiving courier from abroad and draw cash in advance on daily basis and in this process, the petitioner had usurped the funds of the Company.

It is further submitted that the registration of the FIR is an outcome of a collusion between the complainant and the police authorities inasmuch as, initially on 05.07.2014, the complainant filed a complaint under Sections 420, 406, 506, 120-B IPC before the Judicial Magistrate, Ist Class, Faridabad, in which the complainant got recorded preliminary evidence; that besides an application under Section 156(3) Cr.P.C. was filed by the complainant to direct the police to register an FIR; that in the said application, directions were issued to the police to investigate the matter under Section 202 Cr.P.C. and submit a report; that on 03.09.2014, the police submitted the report under Section 202 Cr.P.C. and the case was adjourned to 13.10.2014; that in the meantime, the police registered the FIR on 18.09.2014 and accordingly, the complainant withdrew his complaint on

13.10.2014. It is thus, submitted that the said course of action would clearly delineate that the complainant had got the FIR registered after concoction and consultation. Thus, the impugned order is liable to be quashed by this Court.

It is yet further submitted that even otherwise, there is no material on record to indicate that any property was ever entrusted to the petitioner and that even if it is assumed that any amount was usurped by the petitioner, then also, the dispute being civil in nature, the complainant ought to have availed the civil remedy and not to launch the criminal prosecution; that the petitioner had raised all these pleas before the trial Court, but the trial Court, brushing aside these material aspects, proceeded on to frame charges against the petitioner, which is bad in law and that even the revisional Court did also not take into consideration the same.

I have heard the learned counsel for the petitioner at length and have also gone through the documents on record.

There are specific allegations against the petitioner that she being an employee of the complainant Company had started spending the imprest money for her own personal use; that when she was asked to render the accounts, an amount of Rs.1,90,081/- came to be outstanding against her; that she was given 48 hours to deposit the said amount back, but she failed to do so and that the four account payee cheques given by her to discharge said liability, when presented for encashment, were dishonoured;

Merely because, the police had registered the FIR pending complaint before the learned Magistrate and/or the application under Section 156(3) Cr.P.C., does not give a handle to the petitioner to plead that the allegations contained in the FIR are false.

At the time of framing of the charges, the Court concerned is required to see if a prima-facie case is made out. The Court is not required to go into the threadbare of the evidence or sifting the grain from chaff at this stage. Whether or not any money was entrusted or whether the petitioner was authorised to act in the manner, alleged in the FIR, is a matter of evidence, which cannot be gone into at the stage of framing of the charges.

Hence, finding no merit in the present petition, the same is hereby dismissed.

19.04.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*