

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

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**CRM-M-36521-2021 (O&M)
Date of decision : 17.05.2022**

KAWALJEET SINGH

..... Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present :- Ms. Manju Goyal, Advocate
for the petitioner.

Mr. N. S. Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

CRM-17454 of 2022

This application has been filed for placing on record true translated copies of Annexures P-4 to P-7.

For the reasons recorded in the application, the same is allowed.

Annexures P-4 to P-7 annexed with the application are taken on record.

CRM-M-36521-2021

The present petition has been filed under Section 482 of the Cr.P.C. for seeking quashing of the proceedings against the petitioner arising out of FIR No.147, dated 03.06.2016 under Sections 420 IPC and 63 and 65 of Copyright Act registered at Police Station Sector 17/18 Gurugram.

As per the allegations contained in the FIR which was lodged on the basis of complaint made by one Manoj Kumar complainant-respondent No.2, who has been authorized by Teleshop Teleshopping Company to initiate

legal proceedings against those persons who are selling their products i.e. Easy Slim Tea and Fair Look Cream, which are fake products and sell through websites. It has been further stated by the complainant that they came to know that one SHOPPINGADDA.COM Company was selling their products as fake on their website and the said selling was totally illegal and without authority of selling their products on websites and the products which the SHOPPINGADDA.COM Company were selling were fake and without authority. The address of the aforesaid SHOPPINGADDA.COM was plot No.601 in the basement of DLF Ph-IV, Gurugram. The complainant placed an order for Easy Slim Tea and Fair Look Cream with the aforesaid SHOPPINGADDA.COM and when he got connected with one Kanwaljeet Singh (petitioner), he took his order and assured him that he shall bring six boxes of Easy Slim Tea and Fair Look Cream at Sector 17/18 road near IFFCO Chowk. It has been further stated by the owners of SHOPPINGADDA.COM, that Prince Chugh and Kanwaljeet are illegally selling the products of their company.

Learned counsel for the petitioner submitted that the petitioner is only an employee of the company and not the Director of the company. Learned counsel for the petitioner further submitted that the present FIR has been lodged under Sections 420 IPC and Sections 63 and 65 of Copyright Act and has submitted that Sections 63 and 65 of Copyright Act are non-cognizable offences and so far as Section 420 IPC is concerned, no offence was made out under Section 420 IPC and, therefore, the present FIR is liable to be quashed.

On the other hand, learned State counsel has submitted that it is a case where the petitioner along with other co-accused had been selling fake products on their website by imitating the products of the main company and in

this way, large number of people were cheated by the petitioner and the co-accused. He submitted that there is not only an element of cheating which is involved but there it also involves an adverse effects on the health of persons who had consumed fake products and in the present case, two products were pertaining to Easy Slim Tea and Fair Look Cream.

He further submitted that the arguments raised by the learned counsel for the petitioner that the offence under Section 420 IPC is not made out, is misconceived and has also referred to the provisions of Section 415 and 420 IPC to state that the ingredients of Section 415 read with Section 420 IPC are fulfilled and the FIR cannot be quashed at the threshold as it would be a matter of evidence at the time of trial on which the petitioner is liable to face trial on the basis of the allegations against the petitioner. He further submitted that the petitioner is specifically named in the FIR wherein he had talked with the complainant and had agreed to bring the packet of these products at specified places. He has further submitted that the investigation of the case is complete and now it is fixed for consideration for framing of charges and has therefore, opposed the quashing of the FIR at the threshold.

I have heard learned counsel for the parties.

As per the allegations, a direct role has been attributed to the petitioner who has been named in the FIR and the allegations against the petitioner were that the petitioner along with other co-accused who were working in the name of SHOPPINGADDA.COM were selling fake products of other companies. The subject matter of the present two products were pertaining to health tea and face cream. The argument raised by the learned counsel for the petitioner that the allegations cannot be termed as cheating is misconceived. Section 415 IPC is reproduced as under:-

“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".

A perusal of the aforesaid provision would show that cheating has been defined as 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". (Emphasis supplied).

Section 420 IPC is also reproduced as under:-

“Cheating and dishonestly inducing delivery 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 to fine.”

A perusal of the aforesaid would show that offence under Section 420 IPC would be made out when a person cheats and thereby dishonestly induces any person so deceived to deliver any property to any person, or to make, alter or destroy any whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into valuable security shall be punished with imprisonment for a term which may extend to seven years.

By the definition of cheating, it becomes clear that even act or omission comes or likely to cause harm to 'body' or mind etc., then it is

cheating. In the present case, the petitioner allegedly sold fake face cream and slim tea which can affect both body and mind.

A perusal of Sections 415 and 420 IPC would show that in cheating, there is a dishonest inducement or delivering any property or making over any valuable security and the offence of Section 420 IPC is therefore made out. The taking of money itself is a valuable security. The role attributed by the petitioner in the present case has been clearly stated in the FIR. Law with regard to quashing of the FIR, is no longer *res integra*. The Hon'ble Supreme Court in **State of Haryana and others vs. Ch. Bhajan Lal and others, Civil Appeal No.5412 of 1990** has laid down the parameters for quashing of the FIR at the threshold. However, in the instant case, the petitioner has not been able to make out any case to fall within any of the parameters contained in the aforesaid judgment **Ch. Bhajan Lal and others (supra)**. Even otherwise, also the evidence is to be produced at the time of trial and it is not a case that it can be said that on the face of it the FIR is liable to be quashed. Therefore, this Court is of the view that no ground is made out for quashing of the FIR at the threshold.

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

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

17.05.2022
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Whether speaking/reasoned
Whether Reportable :

Yes
No