IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1377 of 2017
Date of Decision: May 15, 2023

Rahul Sharma **...Petitioner**

Versus

State of Punjab and Another **...Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Raman Mohinder Sharma, Advocate for the petitioner.

Mr. P.S. Pandher, AAG, Punjab.

Mr. Arun Singla, Advocate for respondent No.2.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C, petitioner has prayed to quash FIR No.121 dated 23.12.2015 registered at Police Station Sadar Sangrur, under Section 420 IPC along with the consequential proceedings.

2. FIR was lodged on the complaint of one Jagan Nath, as per which one Hardam Singh defrauded him on the pretext that his son shall be settled in a business in Thailand by investing some amount. It was alleged that a cheque dated 18.09.2014 for ₹8 lacs was given to Hardam Singh and on the asking of Hardam Singh, an amount of ₹50,000/- in cash was given to Rahul (petitioner).

3. It is contended by the petitioner that he was not even in India at the time when the amount of ₹50,000/- is alleged to have been paid to him inasmuch as he had left India in June, 2014 and came back for his marriage in November, 2014. According to petitioner, he is residing in Thailand since 2010 running renowned restaurant by the name of "*Balle Balle Indian Restaurant*" in partnership with Sachin Gupta and others, for which he had

been granted work permit. Petitioner annexed copies of his income tax returns for the year 2011 to 2015 in this regard as Annexure P.4. Petitioner further submits that he came to India on 04.05.2014 for his engagement and went back to Thailand on 06.06.2014. After his marriage was fixed, he came to India on 16.11.2014 and after getting married, went back to Thailand on 26.01.2015. Copy of passport in this regard is Annexure P.5. Petitioner submits that in these circumstances, it is unimaginable that a well settled person residing in a foreign country for the last 6-7 years would receive ₹ 50,000/- particularly when he was not even in India at that time, having good reputed business of running a restaurant making huge profits. Petitioner has also given history of false implication on the part of Jagan Nath. It is submitted by him that Hardam Singh had earlier come to Thailand in 2012 and started running a restaurant by the name of "*Shiv Hardam*" just 4 shops away from the restaurant of the petitioner. However, restaurant of said Hardam Singh failed. Then four new persons started running Indian Restaurant by the name of "*Sagar Thai*" at that place, who included Rajinder Kumar son of complainant Jagannath. However, that restaurant also failed. It is because of this reason that Jagan Nath named the petitioner in the FIR unaware of the fact that on the date of alleged payment, petitioner was not even in India. Petitioner also contended that inquiry was conducted in which he was found innocent but despite that, on the application of co-accused Hardam Singh, inquiry was initiated in which Hardam Singh stated that petitioner was also involved and due to that reason, challan was filed against him.

4. As per the status report filed by the respondents by way of affidavit of Shri Sandeep Kumar, Deputy Superintendent of Police, Sub Division, Sangrur, inquiry was conducted through SHO, Police Station Sadar

Sangrur, before lodging the FIR and it was concluded that an amount of ₹ 8,50,000/- had been paid and complainant had been cheated by Hardam Singh. It was stated in the report that role of Rahul Sharma will be considered after registration of the FIR. On the basis of this report, FIR was registered. During investigation, Hardam Singh submitted an application pleading to be innocent. Investigation was conducted by S.P., Investigation, who submitted his report as per which taking of ₹8,50,000/- by Hardam Singh was duly substantiated. However, it was alleged by Hardam Singh that he had given an amount of ₹50,000/- to Rahul Sharma residing in Thailand and, so, due to connivance of Rahul Sharma, i.e., petitioner, he was nominated as accused. After filing of this petition before this High Court, matter was examined again and it was found that petitioner – Rahul Sharma was not even in India on the date of the alleged occurrence when amount of ₹50,000/- was allegedly paid to him. Due to the lapse and dereliction of official duty of ASI Gurmail Singh, departmental inquiry into the matter was ordered against him by the Sr. Superintendent of Police, Sangrur. An application was submitted before the Court of learned Additional Chief Judicial Magistrate, Sangrur with a prayer to discharge the petitioner – Rahul Sharma, who had been found innocent in the matter. However, the Court dismissed the application.

5. Having considered submissions of both the sides, this Court finds that petition deserve to be allowed.

6. The contention of the petitioner to the effect that he was not even in India, being in Thailand, at the relevant time, when amount of ₹ 50,000/- was allegedly paid to him, is duly supported by the Police report. As the order dated 23.07.2018 of learned Additional Chief Judicial Magistrate, Sangrur reveals that application for discharge could not be

accepted since cognizance had already been taken and charge against the petitioner and co-accused had already been framed.

7. Once it is found on the basis of documents made available on record and duly verified by the Police authorities that petitioner was not even present in India at the time of alleged payment of ₹50,000/- to him, there can be no hesitation to conclude that he has been falsely implicated in this case.

8. As such, FIR No.121 dated 23.12.2015 registered at Police Station Sadar Sangrur, under Section 420 IPC along with the consequential proceedings qua the petitioner, are hereby quashed.

May 15, 2023 **(DEEPAK GUPTA)**
renu **JUDGE**

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