

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.4745

CRM-M-19439-2017 (O&M)

Date of decision : 05.10.2023

Rakesh Gupta

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: None for the petitioner.

Mr. Karanjit Singh, Addl. AG, Punjab

HARPREET KAUR JEEWAN, J. (Oral)

1. Today, none has appeared for the petitioner, despite intimation was sent through email to the counsel for the petitioner.

2. Learned State counsel informed that the matter has become infructuous as accused-Dheeraj Singh Rawat was arrested after filing of the present petition. After completion of the investigation, challan was presented. The trial was concluded and the accused was acquitted. As per judgment dated 31.07.2023 passed by Sh. Mahesh Kumar Sharma (PCS), Chief Judicial Magistrate, Bathinda. Copy of the said judgment has been submitted by the State counsel and the same is taken on record.

3. Perusal of the paper book shows that FIR No.292 dated 29.10.2015 was registered under Section 420 IPC at Police Station Kotwali, Bathinda at the instance of the petitioner-Rakesh Gupta with the allegations that the accused-Dheeraj Singh Rawat had delivered a defective machine and had cheated the complainant to the tune of Rs.8,27,000/-.

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4. As per impugned order dated 23.03.2017 (Annexure P-12), an application was moved by the petitioner before the Area Magistrate with a prayer to initiate action against ASI-Jaspal Singh, Economic Offences Wing (EO wing) on the ground that the accused was arrested, however, he was released being a rich and influential person. The petitioner reported the matter to the Senior Superintendent of Police, Bathinda, but no action was taken. Reply to the said application was filed, whereby, ASI-Jaspal Singh appeared before the Area Magistrate and suffered a statement that he had brought the accused-Dheeraj Singh in the present case, but his arrest was not made. The Area Magistrate came to the conclusion that the offence is punishable upto 07 years regarding which the FIR was lodged and in view of the direction laid down by Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar and another, 2014 AIR (SCW) 3930** that there was no need to arrest the accused. It was further observed that even as per the police file, there was no memo regarding formal arrest of the accused. As such, there was no lapse on the part of the police officials. The Area Magistrate further called for the status report for the next date of hearing.

5. In the present petition under Section 482 of the Criminal Procedure Code, 1973 (for short the Cr.P.C), a prayed was made by the petitioner for setting aside the impugned order dated 23.03.2017 (Annexure P-12) passed by the Chief Judicial Magistrate, Bathinda and further prayer has been made for issuance of a direction to initiate departmental action against the erring police officials. A prayer has also been made for conducting an investigation through an independent police agency

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6. Since, the matter has become infructuous as the investigation has been completed. The accused was thereafter, arrested and he faced the trial and has been acquitted vide judgment dated 31.07.2023 passed by the Chief Judicial Magistrate, Bathinda.

7. In view of these facts, the petitioner appears to have lost interest in the litigation. As such, the present petition has become infructuous and is dismissed as such for non-prosecution.

(HARPREET KAUR JEEWAN)
JUDGE

05.10.2023
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No