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2023:PHHC:118764
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-25216-2016
Date of decision: 11th September, 2023

Vinod Kumar

...Petitioner(s)

Versus

Gian Singh

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sushil Bhardwaj, Advocate for the petitioner.

AVNEESH JHINGAN, J (Oral):

1. This petition is filed aggrieved of order dated 9th May, 2016 accepting the revision petition and setting aside the order summoning the accused.

2. The brief facts are that respondent agreed that a new combine would be supplied to the petitioner in lieu of his old combine subject to payment of ₹7,50,000/-. Partial payment of ₹6,50,000/- was made and old combine bearing registration No. HR-05-5405 was handed over to the respondent. The remaining amount of ₹1,00,000/- was to be paid after two seasons of delivery. As per the affidavit executed by respondent admitting receipt of payment of ₹6,50,000/-, it was stated that on failure to deliver the combine till 10th January, 2012, the respondent shall be liable to pay ₹1,50,000/- as costs.

3. In a complaint filed by the petitioner, JMIC, Karnal vide order dated 9.1.2015 summoned the respondent. The revision petition filed by the respondent against summoning order was accepted, hence the present petition.

3. Learned counsel for the petitioner submits that the petitioner was duped of his hard earned money and old combine machine. The respondent had not performed his part of the agreement.

4. The revisional Court concluded that for failure to honour the conditions of contract the civil remedies are available to petitioner and that every breach of contract does not amount to cheating. The summoning order was quashed.

5. As per agreed terms, in case of failure to deliver the combine the respondent was liable to pay costs of ₹1,50,000/-. No *prima facie* evidence was adduced to prove existence of the ingredients necessary for invoking Section 406 and 420 of IPC, 1860. It was not the case set up that agreement was initially entered with an intention to deceive.

6. The conclusion of the revisional court that no case of criminal proceedings is made out and the dispute is civil in nature is plausible.

7. There is no factual and legal error in the impugned order. The scope of interference in revision is limited.

8. Petition is dismissed.

9. Since the main case has been dismissed, pending application if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

11th September, 2023

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No