

Neutral Citation No. 2023:PHHC:062158
CRM-M-31798-2018 (O&M)

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

CRM-M-31798-2018 (O&M)
Date of Decision: May 01, 2023

Chander Kala and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Hemen Aggarwal, Advocate for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

DEEPAK GUPTA, J.

CRM-6387-2019

This is an application to place on record the photocopies of the affidavits of petitioners dated 25.11.2016 as Annexures P-11 to P-13.

Allowed.

Annexures P-11 to P-13 are taken record.

CRM-6731-2019

This is an application to place on record affidavit of Rakesh S/o Munshi Ram as regards the reply dated 17.11.2018 filed by respondent Nos.1 and 2.

Allowed.

The aforesaid affidavit is taken on record.

CRM-13299-2023 in/and CRM-M-31798-2018

Prayer in this petition filed under Section 482 Cr.P.C. is to

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direct respondent Nos.1 and 2 to take appropriate legal action against respondent Nos.3 to 6 and for registration of FIR against them.

2. By way of CRM-13299-2023, prayer is made to direct respondent No.1 to constitute a Special Investigating Team to carry out the necessary inquiry.

3. According to the petitioners, on the death of their predecessor Shri Munshi Ram in a road side accident, claim petition was filed before Motor Accident Claims Tribunal, Rohtak. Compensation of ₹1,70,000/- along with interest was allowed, vide Award dated 12.11.1996. Petitioners engaged Shri Hemen Aggarwal, Advocate in this High Court, who filed FAO No.254 of 1997 seeking enhancement of compensation. Said FAO was decided by this Court vide order dated 20.05.2014 (Annexure P-1), enhancing the compensation. Petitioners then engaged respondent Nos.3 to 5 as Advocates to file execution petition before Motor Accident Claims Tribunal, Rohtak. Vide order dated 19.03.2016 (Annexure P-2), an amount of ₹12,47,047/- was deposited by the Insurance Company, which was directed by the MACT to be disbursed to the petitioners, as per Award.

4. It is alleged that respondent No.3 Balbir Singh Dhull sent the petitioners along with respondent No.4 Gaurav Dhull to open their saving accounts in State Bank of Patiala, Charkhi Dadri. After opening their bank accounts, respondents kept with them their saving passbooks, cheques, ATM Card etc. and did not even tell the petitioners their saving account numbers. They also obtained signatures of the petitioners on

blank cheque book. It is contended that amount of ₹3,00,000/- was converted into FDR in the name of petitioner Chander Kala, whereas ₹3,09,762/- was deposited in her bank account. An amount of ₹2,61,010/- was deposited in saving account of Meena, whereas ₹1,83,257/- was deposited in the name of Sandeep and ₹1,83,256/- was deposited in the name of Rakesh in their respective saving bank accounts. It is alleged that on asking of respondents Gaurav Dhull and Pankaj Sharma, petitioner Meena withdrew an amount of ₹2,60,000/- on 08.04.2016, out of which said respondents took ₹2,50,000/- on the pretext that ₹2,30,000/- was to be paid to Shri Hemen Aggarwal, Advocate; whereas ₹20,000/- was required for court fee. On inquiry from Shri Hemen Aggarwal, Advocate, he told that he had not demanded any such money nor the same was ever paid to him nor any amount was required for court fee. Not only this, respondent Nos.3 to 5 without the knowledge of the petitioner Rakesh, withdrew an amount of ₹1,80,000/- by way of two cheques of ₹90,000/- each fraudulently. The said cheques were drawn in favour of respondent No.6 ASI Dharam Vir, who is father of respondent No.5 and with whom petitioners have no connection at all and so, there was no occasion to give any cheque to respondent No.6. It is also alleged that this way, petitioners have been cheated to the extent of ₹4,30,000/- by the respondents. Complaints were made to the police, but no action was taken. Legal notice dated 23.04.2018 (Annexure P-6) was sent to respondent Nos.4 to 6; whereas respondent No.3 issued a legal notice dated 07.04.2017, wherein a false stand was taken that pronote had been executed for

₹2,00,000/- towards fee, though in fact no such pronote was ever executed by the petitioners. With all these submissions, prayer is made for taking necessary action against respondent Nos.3 to 6.

5. Upon notice issued to respondents, nobody made appearance on behalf of respondent Nos.3 to 6, despite service through registered post.

6. Reply by way of affidavit dated 17.11.2018 of Shri Pardeep Kumar, DSP, HQ Charkhi Dadri on behalf of respondent Nos.1 and 2 was filed, as per which during inquiry, matter was found to be related to the jurisdiction of Rohtak and so complaint had been forwarded to the Superintendent of Police, Rohtak. On the inquiry made by Local Police, Arya Nagar, Rohtak, it was found that to engage respondent Nos.3 to 5 as their counsel, legal fee was settled at ₹2,00,000/- and in lieu thereof, a pronote was given by petitioner Chander Kala to respondent No.3 and that cheques of ₹1,80,000/- had been given to cover the legal fee. It was further mentioned in the reply that no cognizable offence was found to be made out as the matter was found to be of civil nature. It was also stated in the reply that petitioners had not joined the inquiry.

7. On the direction given by this Court to place on record the notice given to the petitioners to join the inquiry, an affidavit dated 01.11.2022 was filed by Shri Virender Singh, DSP, HQ Charkhi Dadri, as per which Superintendent of Police, Rohtak was contacted and who had intimated those records pertaining to the complaints up to the year 2018, had already been destroyed. Finding the reply to be evasive, this Court

vide order dated 10.11.2022, directed Inspector General of Police, Rohtak to explain the conduct of the police authorities by filing his personal affidavit in the matter.

8. Pursuant to the aforesaid direction, status report by way of affidavit dated 27.03.2023 of Shri Rakesh Kumar Arya, Inspector General of Police, Rohtak Range, Rohtak has been filed, as per which Ms. Medha Bhushan, Addl. Superintendent of Police, Sampla, District Rohtak conducted the inquiry on his direction, who met the petitioners to collect the documents, but nothing was available with them. Respondent Nos.3 to 6 were also contacted and that respondent No.3 submitted photocopy of a pronote, the legal notice dated 07.04.2017, besides his bank account statement. It was concluded that the dispute falls within the domain of professions mis-conduct, which is to be dealt with under the Advocates Act and for which Bar Council, Punjab and Haryana is competent authority to enquire the matter.

9. It is a disputed fact that as to whether any alleged pronote was executed by the petitioners or not towards legal fee. However, as concluded by the police, matter has been found to be of civil nature or at the most of profession mis-conduct.

10. In the aforesaid circumstances, it is not possible for this Court to issue any direction under Section 482 Cr.P.C. for registration of FIR. However, the petitioners are at liberty to approach the Court of learned Jurisdictional Magistrate to file criminal complaint with request to send the same under Section 156(3) Cr.P.C. for registration of FIR. If

any such complaint is made, the Magistrate shall dispose of the same, in accordance with law, without being influenced by any opinion of this court.

The present petition along with CRM-13299-2023 stand disposed of accordingly.

May 01, 2023

Sarita

(DEEPAK GUPTA)
JUDGE

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