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2023:PHHC:056507

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19857-2023
DECIDED ON: 21.04.2023

MAHER SINGH ALIAS MERU RAM

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Navneet Jindal, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. This is a petition under Section 482 Cr.P.C., for quashing of FIR No.332 dated 14.10.2016 (Annexuer P-1) under Sections 406, 420 & 120-B of IPC, registered at Police Station Barwala, District Hisar along with the challan dated 28.06.2019 (Annexure P-2), which was filed under Section 173 Cr.P.C., after thorough investigation by the Investigating Agency.

2. Learned counsel for the petitioner submits that he is an employee of Swarn Sangam Shiksha Sewa Sansthan having its various offices in the State of Haryana, Punjab and Uttar Pradesh, which is a registered society under Section 9(1) of the Haryana Registration and Regulations of Societies Act, 2012 (Annexure P-4), which is dated 24.09.2015.

3. The petitioner on the strength of appointment letters issued by the aforesaid society was appointed as Sales Manager, which is dated 20.05.2015.

Learned counsel for the petitioner has relied upon certain receipts of payment,

which are attached to the present petition and are part of the challan as Annexure P-2, to assert that he worked as an employee and has not gained any benefit out of the said deposit and on that basis, it has been further vehemently argued that Section 406 of the IPC is not attracted qua the petitioner.

4. It is also submitted by the petitioner that there are various FIRs already registered against office bearer of the Swarn Sangam Shiksha Sewa Sansthan Barwala, Hisar, Haryana on the same set of allegations for offences under Sections 420 and 406 of IPC, 1860. It is further asserted by counsel for the petitioner that the challan has been presented only against the petitioner by police despite the fact that none of the ingredients of Sections 406 & 420 of IPC are made out.

5. Learned counsel for the petitioner has drawn attention of this Court to the said receipts, particularly on the aspect that the said receipts are signed by one Roshan Lal and Sukhvinder, who were office bearers of the said society and are co-accused.

6. Heard.

7. Before culminating the view, It would be appetite to examine the definition of Section 420 IPC, which reads as under:-

“420. 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.”

8. The ingredients of an offence of cheating have been crystallized

by the Apex Court in '*SW PalaNtkar versus State of Bihar-2002 SCC(Cri.) 129*' as:-

“(i) there should be fraudulent or dishonest inducement of a person by deceiving him, (ii) (a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and

(iii) in cases covered by (ii) (b), the act of omission should be one which causes or is likely to cause damage or harm .to the person induced in body, mind, reputation or property.”

9. In fact the definition of cheating has been derived in Section 420 IPC from Section 415 IPC and therefore, both the sections are to be read inconsonance with each other and therefore, it mandates this Court to have a glance on this provision as well, which reads as under:-

“415. Cheating.—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”.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

10. On perusal of the challan attached as Annexure P-2 to the instant petition, it is apparent from a list of amount prepared by Swarn Sangam

amount given to Mehar Singh alongwith the serial numbers of the receipts making to a total amount of Rs.16,50,600/- in one list, apart from another list, wherein amount is, consisting of amount to the tune of Rs.64,80,640/-.

11. There is no merit in the submissions made by learned counsel for the petitioner inasmuch as he has made an attempt before this Court for appreciation of the document/evidence on record, which pertains to a private society merely registered under the Haryana Registration and Regulations of Societies Act, 2012, but since such documents are not public documents, it cannot be ascertained as to who has signed the same and who collected the money, which is to the tune of Rs.1 crore 24 lakhs at least as per the lists available on record as part of the challan.

12. This Court is of the considered view that the facts narrated by the petitioner and all the submissions made with the support of those documents clearly, if make out a case of disputed facts, then it cannot be adjudicated, while exercising jurisdiction under Section 482 of Cr.P.C., before this Court, as said inherent powers are to be exercised, no doubt to curtail the abuse of process of law or where patent illegality can be brought on record, but on both these aspects, the petitioner has failed from all corners. All the facts are to be proved by leading evidence in the trial Court.

13. Hence the petition being devoid of merits stands dismissed.

14. However, no observations made hereinabove shall have any bearings on the merits of the trial.

(SANDEEP MOUDGIL)
JUDGE

21.04.2023

Meenu

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