

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18863-2022 (O&M)
Reserved on: 13.01.2023
Pronounced on: 31.01.2023

Somesh Chaudhary
... Petitioner(s)
Versus
State of Haryana & another
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anil Mehta, Advocate for
Mr. Tarun Seth, Advocate
for the petitioner(s).

Mr. Rajat Gautam, DAG, Haryana.

Mr. Gaurav Singla, Advocate
for respondent no.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
173	12.5.2020	Sadar Ballabhgarh, Faridabad	406 IPC

1. Seeking quashing of FIR filed under section 406 IPC, on the allegations of selling of the car, the accused-petitioner came up before this Court under Section 482 CrPC, on the ground that he owned the car in question and as such, no offence can be committed by the owner of the car when he did not sell the same.

2. On 12.5.2020, based on the complaint made by the complainant-respondent no.2, the police registered the above mentioned FIR. The complainant alleged that he is an advocate by profession and owns an Audi car No.HR-26-BE-0074. Petitioner-accused Somesh Chaudhary was his friend and one day he came to him and told that his vehicle was broken down and it would take 15-20 days to repair. He requested him to hand over his car for 15-20 days. Since they were friends for long time, he handed over the car. After some time when the complainant asked the accused to return back his car, the petitioner-accused told that the car had met with an accident and it has been given for repair at Faridabad and the moment it is repaired, he would return the same. After that, whenever the accused was asked for return of the vehicle, he delayed on one pretext or the other, saying that since parts of the vehicle are not available it has not

been repaired. In this process, for 6-8 months, he did not get back his car. Now, for the last 1½ month, the accused did not even pick his phone calls and also refused to meet him. The complainant further alleged that he came to know that Somesh Chaudhary is using his vehicle for illegal purposes and he was afraid that he may not involve him in any false case. After completion of investigation, the concerned officer-in-charge of the police station launched prosecution against the petitioner-accused. During the police remand, it was revealed that the accused Somesh Chaudhary had sold the vehicle in question to one Sulochana Garg in Delhi.

3. Feeling aggrieved of launching of the prosecution, the petitioner-accused came up before this Court for quashing of the FIR captioned above. In paragraph 5 of the petition, the petitioner-accused alleged that he runs a company in Gurgaon and the complainant-respondent no.2 was working as Legal Advisor in the said company from 2016 to 2019, when he was terminated. He has annexed his appointment letter as Annexure P-3 along with the petition. In paragraphs 7 and 8, he has stated that the petitioner had purchased this vehicle in May, 2016 from one Rajan Pahwa and has been using the same till 2020 and even as on date, he is owner of the vehicle in question as per entries made in RTO, Chandigarh. He has referred to documents Annexure P-4 which he had obtained under RTI from RTO, Chandigarh. He also referred to Registration Certificate Annexure P-5 and stated that he purchased the said vehicle from Rajan Pahwa on 6.5.2016.

4. The petitioner also filed a supplementary application i.e. CRM-31393 of 2022, in which he stated that once he himself had bought the vehicle in question from Rajan Pahwa on 6.5.2016, which was clearly visible from the registration certificate, as such, it was not possible for him to sell the vehicle in question in April 2016.

5. Counsel appearing for respondent No.2 objected to the petition primarily on two grounds. Firstly, that the petitioner is a habitual offender with as many as five type of cases which shows his malicious intent and secondly that although the police report (challan) was filed but the petitioner intentionally did not annex the entire challan and withheld the most important material documents including a receipt showing the payment received by the petitioner from the complainant.

6. Given the fact that the police challan had been filed, as such, in case the accused had to be assailed the FIR, it is obligatory for him to place on record and annex the entire challan (police report).

7. Perusal of the petition reveals that the petitioner had annexed documents very selectively and there is no explanation that why the entire challan was not annexed.

8. Given above and coupled with the objections by the complainant about withholding of material documents, the present petition is defective and does not possible for this Court to adjudicate the matter with incomplete documents. Consequently, the present petition is dismissed. Liberty reserved to file a fresh. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

January 31, 2023
AK/anju rani

Whether speaking/reasoned	:	Yes
Whether reportable	:	No