

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-17974-2020 (O&M)

Date of decision : 28.03.2023

Rajinder Devgan @ Rajinder Singh

...Petitioner.

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Puja Chopra, Advocate for petitioner.

Mr. Vinay Kumar Gupta,
AAG, Punjab, for respondent No.1.

HARKESH MANUJA, J. (ORAL)

By way of present petition under Section 482 Cr.P.C., prayer has been made for quashing of order dated 29.05.2020 issued by respondent No. 4.

Brief facts of the case as explained in the petition are that the petitioner is dealing in Iron and Steel business in the name of proprietorship firm M/s Devgan Mechanical Works at Mandi Gobindgarh, District Fatehgarh Sahib. The petitioner was having business dealings with firm M/s Patran Steel Traders, Mandi Gobindgarh, District Fatehgarh Sahib, Suresh Bansal being its proprietor who happened to be father of respondent no 2. During business transactions some defective goods were allegedly supplied by M/s Patran Steel Traders to the petitioner firm and when the petitioner objected to the same and requested to take their defective goods back, there arose a dispute between the petitioner and aforesaid firm. Due to the aforesaid dispute with Suresh Bansal, his son i.e. respondent no 2 being well

acquainted with respondent No 3, who was posted as Sub Divisional Magistrate Amloh at the relevant period of time, filed a complaint/ application before him praying for recovering the payment. On the basis of the aforesaid complaint/ application, vide order dated 29.05.2020, petitioner was summoned to appear before the court of respondent no 3.

By way of present petition, petitioner has impugned the order dated 29.05.2020 passed by respondent no 3, whereby petitioner has been summoned to appear before him.

Learned counsel for the petitioner contends that respondent no 3 neither exercised the power of a Civil Court, nor that of a Criminal Court and thus summoning order issued by him being without any authority and jurisdiction, is liable to be quashed.

On the other hand, learned State counsel submits that in para No. 3 of the complaint by respondent no 2, a threat has been given to him to face the dire consequences at the hands Petitioner and it is only in order to prevent breach of peace in the area, notices have been issued to both the parties i.e. Petitioner and Respondent No. 2, in due course of law.

Vide order dated 24.03.2021, last opportunity was granted to respondents No. 2 and 4 to submit reply in this case but as noted in order dated 07.04.2022, no reply has been filed on their behalf, nor they have chosen to appear before this Court.

I have heard learned counsel for the parties and gone through the paper book. I find merit in the arguments raised by learned Counsel of the petitioner. It is beyond comprehension of this court that under what authority respondent no. 3 issued summons to the petitioner. Appropriate

remedy to be taken by respondent No 2/ his father was to either file a recovery suit before Civil Court, or criminal complaint before police/ magistrate. But authority being exercised by respondent no. 3 does not fall in any of the available remedies to the complainant and it is apparent that through these proceedings, appropriate legal remedies were being bypassed. Further, there is no material on record to suggest that during Covid time, respondent no. 3 was vested with any such power.

In view of the discussion held above, petition is allowed and the complaint dated 29.05.2020 as well as the proceedings arising therefrom being without any jurisdiction and authority are quashed.

Pending miscellaneous application(s), if any, shall also stand disposed of.

28 .03.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned:	Yes/No
whether reportable:	Yes/No