

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-37177-2018

Date of Decision: 13.02.2023

Devinder Singh & Anr.

... Petitioners

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. JS Saneta, Advocate and
Mr. BS Brar, Advocate for the petitioners

Mr. Mohit Kapoor, Addl. AG Punjab

Mr. Nakul Sharma, Advocate for respondent No.2

Sandeep Moudgil, J.

The petitioners seek quashing of the FIR No.91 dated 07.08.2018 under Sections 420/120-B IPC, registered at Police Station Sirhind, District Fatehgarh Sahib.

Learned counsel for the petitioners submits that the engagement ceremony of the son of the petitioners namely, Inderjit Singh with Mahik daughter of the complainant was broken on the ground of complainant's act of doing *tona totka*. The petitioners have also averred that they had returned to the complainant side, a diamond ring, a golden chain set and eleven valuable suits costing Rs.1 lakh to the daughter of the complainant and had spent a total of Rs.3,50,000/- and it was settled between the parties that they will not ask for return of the items already given to them but the lust of the complainant towards extracting more money and defame the petitioners, has resulted into filing of the present false and forged complaint.

Learned counsel for the petitioners has relied upon the **Jagvir Kaur vs. State of Punjab & Anr. 2011(3) RCR (Crl.) 192** to contend that if criminal proceedings are going on that will be mere wastage of precious time of the court as well as the State agency and that breaking of engagement does not amount to cheating and as such no offence under Section 420 and 406 IPC can be said to be made out.

Learned counsel for respondent No.2 has filed reply dated 07.12.2022 stating that respondent No.2 had spent Rs.1,25,000/- on diamond ring and Rs.1,20,000/- on golden chain and other expensive gifts and valuable cloths to other relatives of the petitioners. Respondent No.2 while narrating the long story of engagement ceremony, stated that the daughter of respondent No.2 and the son of the petitioners were in talks over mobile phone after engagement ceremony and when the son of the petitioners came back to India from Canada, they started demanding costly car etc.

Heard learned counsel for the parties, this Court is of the considered opinion that this petition ought to succeed.

Firstly, the ingredients of the offence of cheating are not at all disclosed in the FIR. No date, time and place for performing the marriage was actually fixed as claimed by respondent No.2. The petitioners never approved the daughter of respondent No.2 to become the bride of their son and it was only an engagement. Even if the petitioners had agreed to marry with the daughter of respondent No.2, the offence of cheating cannot be said to have been established in view of the **Raje Ram and another Vs. Chander Bhan 1983 (2) R.C.R. (Criminal) 413, (Punjab and Haryana)** and **Jagvir Kaur Vs.**

State of Punjab and another, 2011 (3) R.C.R. (Criminal) 192 (Panjab and Haryana).

Secondly, there is absolutely no mention in the FIR that the petitioners, right from the inception, had an intention not to perform the marriage with the daughter of the respondent No.2 and on the pretext of performing marriage with the daughter of the respondent No.2, induced him to part with any amount or to take any steps for arranging the marriage. The dishonest intention, right from the beginning, which is an essential ingredient for constituting the offence of cheating, is totally absent in the present case. The facts narrated in the FIR *ex facie* show that this is, at the most, a case of breach of the promise to perform the marriage. Consequently, no offence of cheating punishable either under section 417 or section 420 of the I.P.C. can be said to have been disclosed against the applicants. Such a matter cannot be allowed to be fought before the criminal Court. In my opinion, considering the facts of the present case, the continuation of the criminal proceedings against the petitioners or their son would be nothing but an abuse of the process of law. In the circumstances, the present proceedings instituted against the petitioners would not be maintainable and would be liable to be quashed and set aside.

Accordingly, this petition is allowed and the FIR No.91 dated 07.08.2018 (Annexure P1) is hereby quashed.

13.02.2023

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No