

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

111+263

CRM-M-41561-2017 (O&M)

Date of decision: 22.08.2023

Raj Kumar alias Raju and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. B.S. Rana, Sr. Advocate with
Mr. Ayush Gupta, Advocate,
Mr. Nayandeep Rana, Advocate,
Mr. Navdeep Doon, Advocate and
Mr. Kawalpreet Singh Virk, Advocate
for the petitioners.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Mr. Gobind Dhanda, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners have invoked the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. to quash FIR No.0696 dated 21.07.2017 under Sections 406 and 506 of the IPC registered at Police Station Jind City, District Jind (Annexure P-1), along with all consequential proceedings arising therefrom.

2. Learned senior counsel for the petitioners while drawing the attention of this Court to the allegations levelled in the FIR (Annexure P-1), has vehemently argued that the dispute, if any, on the face of it was of a civil nature and that too between the complainant and co-accused Azad Singh. He has submitted that since the complainant was unable to recover money which was owed to him by co-accused Azad Singh, a false version had been brought forth in the FIR in question against the petitioners (lessors of co-accused Azad Singh) that

they had borrowed an amount of ₹7,22,000/- from him on 13.04.2017, on an alleged assurance given by co-accused Azad Singh that the borrowed money would be repaid to him by them. Learned senior counsel has further vehemently asserted that on account of the monetary dispute between co-accused Azad Singh and the complainant, a Panchayat of Satrol Khap and Naugama Khap was convened on 07.07.2017 which was attended by about 300 odd people of various villages. During the Panchayat, no allegations were levelled by the complainant against the petitioners, much less of any money having been borrowed by them from the complainant. In support, learned senior counsel has drawn the attention of this Court to Annexure P-3. Still further, the complainant had also filed a complaint in the office of District Marketing Procurement Officer, alleging therein that one commission agent, Master Gogal, Shop No.98, Angad Trading Company, New Grain Market, Jind had cheated him of his money. The complaint was inquired into by the officers and even therein, no allegations were levelled against the petitioners. In support, learned senior counsel has drawn the attention of this Court to Annexure P-4 which is a copy of the report dated 19.07.2017 submitted by the District Marketing Procurement Officer, Jind to the Chief Administrator, Haryana State Agricultural Marketing Division. Learned senior counsel has submitted that in the abovementioned facts and circumstances, it left no manner of doubt that since the land of the petitioners was being cultivated by co-accused Azad Singh, who in turn was selling his produce to the complainant, the petitioners had been intentionally implicated in the case in hand, only because they happened to be lessors

of co-accused Azad Singh.

3. Per contra, learned State counsel assisted by learned counsel for respondent No.2, has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that the petitioners along with co-accused Azad Singh had connived with each other and after winning the confidence of the complainant had made him part with ₹7,22,000/- in the presence of witnesses, on an assurance that the amount would be returned at the earliest. While drawing the attention of this Court to the allegations levelled in the FIR, it has been further vehemently urged that the offence of cheating was clearly made out against the petitioners because as and when the complainant requested them to return the amount loaned, they extended threats of dire consequences to the complainant and refused to return the amount. It has still further been submitted that an application was moved by the petitioners against the charges framed by the learned Trial Court as well as for their discharge, however, the same stood dismissed by the Trial Court.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. Powers of this Court under Section 482 of the Cr.P.C. no doubt, are very wide, however, they have to be used cautiously and sparingly. In the case in hand, subsequent to the registration of the FIR in question, a thorough investigation was carried out, leading to the presentation of challan. Thereafter, the Court took cognizance of the matter and framed charges against the petitioners. It is a matter of record that the petitioners also moved an application for discharge

under Section 239 of the Cr.P.C. which was dismissed by the Court below vide order dated 04.05.2023. Admittedly, the case is now posted for prosecution evidence. Therefore, it would not be proper for this Court to interfere at this stage as quashing of the FIR, at this stage, when charges have been framed and the case is at the stage of prosecution evidence would amount to stifling a legitimate prosecution when prima facie the commission of the offences alleged, is made out. Furthermore, this Court cannot be expected to embark upon an inquiry as to the reliability or truthfulness of the allegations levelled in the FIR. It needs to be reiterated that questions of fact are to be decided on the basis of evidence led and not in a petition under Section 482 of the Cr.P.C. The contention of the learned senior counsel for the petitioners that the petitioners had been implicated in the FIR only on account of being lessors of co-accused Azad Singh, cannot be gone into by this Court under Section 482 of the Cr.P.C., as the veracity or otherwise of the same would be tested on the touchstone of cross-examination during trial.

6. Accordingly, finding no merit in the instant petition, the same is hereby dismissed.

7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

22.08.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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