

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-34933-2021

Date of Decision:12.07.2023

Raman Kumar Mishra

. . . . Petitioner

Vs.

State of Punjab

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Ankush Rampal, Advocate, for
Mr. Rahul Rampal, Advocate, for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 Cr.P.C. is to quash FIR No.54 dated 03.08.2019 (Annexure P1) registered at Police Station Sadiq, District Faridkot under Sections 420 of the IPC; Challan under Section 173 CrPC dated 20.09.2019 (Annexure P2) and all the consequential proceedings arising therefrom.

2. It is contended that petitioner has been implicated falsely by showing the recovery of one small drum plastic, plastic bucket and wooden stick in order to connect him with the crime and that in fact, there is no lab report to compare the alleged goods recovered from the petitioner to be counterfeit. It is further alleged that there is no person, who has been cheated.

3. As the police report reveals, information was received that petitioner and others were selling duplicate products like toilet cleaner, utensils and glass cleaner to ignorant people without issuing any invoice and that their products were not approved by any government body.

Information was also to the effect that petitioner Raman Kumar was the main supplier of the duplicate products for the further sale. Investigation was conducted during which, petitioner was found in possession of the duplicate products. During interrogation, petitioner disclosed that he used to prepare the duplicate glass, toilet and utensils cleaners by mixing water in a substance called 'lisa pole' and that he used to prepare several bottles of cleaner from one litre 'lisa pole' and used to sell the same at a huge margin. During further investigation, one Baljinder Singh son of Mohinder Singh disclosed that he had been deceived by the accused number of times by selling him duplicate products with the assurance that the products were real and authentic. He also identified the accused/petitioner. After completing the investigation, challan was filed to prosecute the accused/petitioner.

4. In *State of Haryana and others Vs. Ch. Bhajan Lal and others*” 1992 AIR 604, Hon’ble Supreme Court has laid down the guidelines as to the cases in which High Court can exercise its extraordinary power to quash the FIR under Section 482 Cr.PC. It was held as under: -

“8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration, wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide of myriad kinds of cases wherein such power should be exercised:

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

5. The present case does not fall in any of the aforesaid categories on account of which the FIR and the subsequent proceedings could be quashed. Incriminating material has been found during investigation against the petitioner, which is to be tested during trial.

6. As such, finding no merit in the present petition, the same is hereby dismissed. However, the petitioner will be at liberty to raise the pleas raised in this petition before the trial Court.

(DEEPAK GUPTA)
JUDGE

12.07.2023

Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |