

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42523 of 2022(O&M)
Date of Decision: 01.05.2023

Rakesh Biswas

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Abhilaksh Grover, Advocate
For the petitioner.**

Mr. Vishal Kashyap, DAG Haryana.

**Mr. Lalit K. Yadav, Advocate
For the complainant.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 145 dated 10.06.2022, registered under Sections 406, 420 and 506 IPC at Police Station Sector-9, Ambala City.
2. The allegations in nutshell are that petitioner is Director of M/s Iysert Energy Research Private Limited, Jaipur and the said company entered into a contract with the complainant i.e. M/s Tech Solutions, Ambala to provide them solar lights in April, 2021. The petitioner supplied the aforesaid solar lights against payment. As per the complainant the said solar lights were of poor quality and were of lesser wattage and the petitioner was informed about the same but the petitioner and M/s Iysert Energy failed to replace the said solar lights and also refused to refund the amount. Consequently, FIR was registered in the present case under Section 406, 420, 506 IPC.

3. The counsel for the petitioner, *inter alia*, contends that proper solar lights were provided to the complainant by the petitioner as per the contract. The counsel for the petitioner further submits that even if the allegations made in the FIR are taken to be true on their face value, it is a case of breach of contract, for which the complainant could seek civil remedy. The counsel for the petitioner further submits that actually in the present case the complainant failed to make part payment of the sale price of solar lights and then M/s Iysert Energy approached Micro and Small Enterprises Facilitation Council, Rajasthan to recover an amount of Rs.1,96,558/- from the complainant vide application Annexure P-25. The counsel for the petitioner further submits that in order to counter the said claim raised by the petitioner the FIR in the present case was lodged at the instance of the complainant. The counsel for the petitioner further submits that the petitioner has already joined the investigation with the police.

4. The present petition is contested by the counsel for the complainant who submits that complainant placed order of 257 solar light panels of 60 watts to M/s Iysert Energy. The solar lights which were supplied by the said firm were found to be of 50 watt each and even their quality was not good. That when the complainant asked the said firm to replace the same or to refund the sale price, the petitioner and other Directors of the company started giving threats. The counsel for the complainant further submits that the entire amount with regard to purchase of aforesaid solar lights was already paid to M/s Iysert Energy and that application, Annexure P-25 is totally false and was filed just to put pressure on the complainant.

5. The State counsel, on instructions from ASI Salender Kumar, submits that petitioner has joined the investigation and is not required for any further investigation or custodial interrogation by the police.

6. I have considered the submissions made by counsel for the parties.

7. Admittedly, there was contract between the parties, as per which M/s Iysert Energy was to supply solar lights of given specification to the complainant and the petitioner supplied the given number of solar lights. However, the plea of the complainant is that the goods supplied by the accused were not as per the specification and goods supplied were different from the order placed and they were of inferior quality.

8. It is a moot point as to whether breach of contract as has been alleged by the complainant also amounts to a criminal offence or the only relief available to the complainant is by way of filing civil suit for damages/ recovery of the disputed amount.

9. Further, it is a matter of evidence as to whether the accused persons including the petitioner were having dishonest/ *malafide* intention from very beginning to deceive the complainant. Further, the petitioner who has joined the investigation with the police, is not required for any further investigation or custodial interrogation by the police. So, no purpose is going to be served by subjecting the petitioner to custodial interrogation at this point of time.

10. In view of the above, without commenting on the merits of the case, the present petition is allowed and interim order dated 15.09.2022 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

01.05.2023

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(KARAMJIT SINGH)
JUDGE

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