



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

116

CRM-M-17845-2024

Date of decision: August 6th, 2024

Mukesh Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Anish Gautam, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J.

Prayer in the instant petition is for quashing of FIR No.323 dated 16.11.2022 under Sections 120-B, 408, 419, 465, 467, 468, 471 of the IPC registered at Police Station Industrial Sector-7, Manesar, District Gurugram, along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that he has been falsely implicated in the present case, as is evident from the fact that he was neither named in the FIR, which has been annexed as Annexure P-1 nor was any role attributed to him therein. It is further submitted that, according to the allegations, one co-accused Lokesh Bagadi, who worked as an accountant in the company of the complainant, had stolen a cheque and forged the signatures of the complainant on it. The petitioner's name first emerged only in the disclosure statement of co-accused Lokesh Bagadi, which admittedly holds very weak evidentiary value. Additionally, it has been submitted that during the investigation, the complainant claimed that another cheque had been deposited by the petitioner. However, there was a

material discrepancy between the amount stated by the complainant and the amount found to have been deposited into the petitioner's bank account.

3. Learned counsel for the petitioner has asserted that the reason for his false implication in the present case is that his services were illegally terminated by the complainant without proper notice and clearance of his dues, prompting him to approach the Labour Department against the complaint. Furthermore, it has been argued that despite the completion of the investigation, no other cogent evidence other than the alleged disclosure statement of co-accused Lokesh Bagadi, linking the petitioner to the alleged crime in question has surfaced.

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

5. Before proceeding further, it would be apposite to reproduce the FIR (Annexure P-1), which is as under:-

"Subject Complaint against Lokesh Bagadi, Accountant (For Cheque Stolen - Chq No 408566 for Rs 158700/-) and Cash Rs.50000/- Sir, We, Ayika Sciences Pvt Ltd, have a factory in the name of Ayika Sciences Pvt Ltd, Plot No. 48 and 49, Sector 6, IMT Manesar, Gurgaon Haryana Directed by Ms Jessica Sethi. Lokesh Bagadi, PAN- AXSPB4324P (29/05/1989) S/o Govind Prasad, resident, Flat No.98, Sector 9, Aravali Vihar near Manesar Chowk, Bhiwadi Dist Alwar (Raj)-301019, 2nd Address, Aravali Vihar, R.H.B., Bhiwadi, Alwar (Rajasthan), E-mail-bagadi lokesh@gmail.com. Address-Bhagat Singh Colony Dharuhera, Mobile No.9773394544, 7015487671. Lokesh Bagadi was hired as an Manager Accountant in our factory, joining Date 18/08/2022, As accountant he had the cheque book, cash, Letter Heads, stamp and personal files in his custody. He was hired on monthly salary Rs.38,000/- and same salary is being paid to him as per his attendance every month. Lokesh Bagadi has

stolen cheque No.408566 and made this with forged signature in favour of himself, joint account Lokesh PREETI for Rs.1,58,700/-. He is not coming to office from 14.11.2022. Lokesh Bagadi has stolen cash Rs.50,000/-, company's Letter head, Company's Stamp and he has stolen his personal file from Accounts. I have tried many calls on his mobile number. His mobile number is coming switched off. Sir, This cheque No.408566 for Rs.1,58,700/- was not issued in favour of him by me. The cheque has been stolen and signatures have been forged by Lokesh Bagadi. Today (15/11/2022) Morning I received an sms/email 6:52 AM (copy of email attached for reference) that-Cheque no.408566 for Rs.1,58,700/- has been presented for clearance to his bank by Lokesh Bagadi/Preeti, Joint account. Today (15/11/2022). I have visited to my Bank SBI, Mid corporate Branch, 91 IDC, First Floor, MG Road Gurgaon, Haryana-122002 and submit a written request (copy of letter to SBI attached) for stop payment for the same cheque No. 408566 for Rs.1,58,700/- with immediate effect. You are requested to kindly accept my complaint against Lokesh Bagadi, investigate case, Action and file FIR for cheque Theft case, Cash Rs.50,000/- Theft Case, Forge Signature, Wrong intension, Fround Dhokhadhadi, Thagi, against lokesh Bagad.

6. At this juncture, it is pertinent to observe that although this Court is vested with extraordinary powers under Sections 528 of BNSS, these powers must be exercised with great caution and circumspection. At this stage, the Court must limit itself to determining whether the FIR in question discloses the commission of a cognizable offence; it cannot delve beyond the allegations in the FIR and the material collected by the investigating agency, nor can it consider the defence of the accused.
7. A perusal of the allegations in the FIR which already stands reproduced hereinabove, *prima facie* reveals the commission of cognizable offences. The Court cannot examine the truthfulness of the allegations nor consider the submissions made by the learned counsel for the petitioner regarding his false implication at this stage.

Furthermore, the petitioner has raised several disputed questions of fact, which can only be addressed during the course of trial when the parties present their evidence, which in turn would be tested on the touchstone of cross-examination.

8. As a sequel to above, no ground is made out to accept the prayer of the petitioner.

9. The instant petition stands dismissed.

10 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.

August 6th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No