

2024:PHHC:042372

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRM-M-24044-2023  
Date of Decision :January 31, 2024

RAJIV KUMAR .....Petitioner

*VERSUS*

STATE OF HARYANA AND ANOTHER .....Respondents

**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Archit Kaushik, Advocate and  
Mr. Bramhansh Bhardwaj, Advocate,  
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Tarun Vaid, Advocate  
for the respondent.

**KULDEEP TIWARI. J.(Oral)**

1. Through the instant petition, petitioner by invoking the inherent powers of of this Court has sought quashing of FIR No.209, dated 24.03.2021, registered under Sections 120-B, 406, 420 of the IPC, at Police Station Sonipat City, Sonipat, and all subsequent proceedings arising therefrom.
2. In asking for the relief (*supra*), learned counsel for the petitioner submits that since the co-accused who happens to be a director of the company, has been acquitted vide judgement dated 24.05.2022, by the learned trial Court concerned, therefore, no purpose would be served to put the petitioner on trial.
3. He further submits that he is himself is a victim, as he had also invested in the same company, and he has filed a criminal complaint which is pending consideration before the Metropolitan Magistrate, West

District, Tis Hazari Court, Delhi.

4. He further submits that the petitioner is neither a director, nor having any control over the functioning body of the accused-company, and no money has been deposited by the complainant in the personal bank account of the petitioner. Therefore, no offence whatsoever, is made out under which the petitioner is facing trial, i.e. Sections 420, 406 and 120-B of the IPC.

5. Before this Court proceeds to adjudicate the issues raised by learned counsel for the petitioner, it is apt at this stage to deal with the facts of the case.

6. On a complaint made by Vikas Kumar son of Naresh, the instant FIR was registered wherein, he submitted that he invested about Rs.35.00 lacs in the accused-company on the asking of some of his known persons, whose names are mentioned in the FIR. He further alleged in the complaint that neither the interest as assured, nor the principal amount was returned, in fact they (accused) have dishonestly induced him to part with the money. He further alleged that during the pendency of the complaint, it was assured that they (accused) would return Rs.20.00 lacs out of the total amount, however, the same was never returned to the complainant.

7. Learned State counsel assisted by learned counsel for the complainant, has vociferously opposed the asked for relief sought by the petitioner.

8. This Court has heard the learned counsel for both the parties concerned, and has gone through the entire case file.

9. The first issue which was raised by learned counsel for the petitioner, that the co-accused has already been acquitted, therefore, the FIR *qua* the present petitioner, be also quashed, is in fact a misplaced argument. This Court cannot pre-empt that the similar kind of evidence could be adduced by the prosecution against the present petitioner also, and thereupon, the learned trial Court concerned would proceed to conclude that on such evidence the petitioner cannot be convicted and therefore, FIR cannot be quashed *qua* the present petitioner.

10. Secondly, the issue that the petitioner himself is a victim, and has filed a complaint against the accused-company, and that he is not a director in the accused-company, all these are a disputed question of fact, which cannot be adjudicated by this Court under the proceedings under Section 482 Cr.P.C.

11. Since all the issues raised before this Court by learned counsel for the petitioner, require appreciation of evidence, which is under the domain of the learned trial Court concerned, that too after affording adequate opportunity to the prosecution to adduce evidence to prove the allegations as alleged in the instant FIR, this Court under the proceedings under Section 482 Cr.P.C., cannot appreciate the factual disputed question of facts. Therefore, this Court refrains to exercise its inherent power, and consequently, the instant petition is ordered to be **dismissed**.

12. However, liberty is reserved for the petitioner to raise all such pleas which have been raised through the instant petition, before the

learned trial Court concerned, at an appropriate stage.

13. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

January 31, 2024  
*dharamvir*

(KULDEEP TIWARI)  
JUDGE

|                            |   |        |
|----------------------------|---|--------|
| Whether speaking/reasoned. | : | Yes/No |
| Whether Reportable.        | : | Yes/No |