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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31326-2023 (O&M)
Date of Decision:04.11.2024

Jagsir Singh Dhiman and Anr. ...Petitioners

Vs.

State of Punjab and Anr. ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present: Mr. H.S Maan, Advocate
for the applicant-petitioners.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

Mr. Munish Raj Chaudhary, Advocate
for respondent No.2.

N.S.Shekhawat J.

CRM-21812-2024

1. Application is allowed as prayed for, subject to just all exceptions.
2. Annexure P-3 is taken on record.

CRM-43473-2024

1. The present application has been moved with a prayer to place on record the amended memo of parties.
2. Learned counsel for the applicant-petitioner submits that the name of the petitioner No.2 has been wrongly mentioned as Harjeevan Singh Dhiman instead of Harjinder Singh Dhiman in the memo of parties.
3. For the reasons mentioned in the application, the same is allowed and the amended memo of parties is taken on record.

**Main case**

1. The petitioner has filed the present petition under Section 482 of Cr.P.C with a prayer to quash the FIR No.03 dated 15.01.2023, under Sections 420,120-B of IPC, registered at Police Station Sehna, District Barnala and all other subsequent proceedings arising therefrom.

2. The FIR in the present case was registered on the basis of the complaint moved by Avtar Singh son of Nachattar Singh, respondent No.2 and the same has been reproduced below:-

“Complaint No. 220/VP dated 26.01.2022 given by Avtar Singh son of Sh. Nachattar Singh resident of Village Ugoke. Contents of complaint are as under, "To, SSP Sahib Barnala. Subject: In respect of recovering my amount of Rs. 9,50,000/- from Jagsir Singh son of Sh. Pritam Singh resident of Village Ugoke, Tehsil Tapa, PS Sehna, District Barnala, Mob. No. 94786-79137 and returning to me and registration of FIR against him for speaking abusive language and giving threats to kill on demanding money. Sir, I, Avtar Singh son of Sh. Nachattar Singh, resident of Village Ugoke, Tehsil Tapa, PS Sehna, District Barnala, Mob. No. 70092-36200. That I am resident of above mentioned address. I and said Jagsir Singh had started business of manufacturing agricultural tools on my land at Village Ugoke. Both of us were partners in this work. We worked in partnership for about 14 months. Afterwards, he gave complaint against me at PS Sehna that I have grabbed his factory, have stolen his goods/tools. We compromised the matter between us in Rs. 40,00,000/- Rs. 20,00,000/- came in my share and Rs. 20,00,000/- came in Jagsir Singh's share. Jagsir Singh's cost for shed is fixed as Rs. 10,50,000/-. I have to deduct this amount of Rs. 10,50,000/- from my Rs. 20,00,000/-. Rest he owe Rs. 9,50,000/- to me. He is simply refusing to pay my money, instead police officials of PS Sehna are also assisting him. Nobody



is listening to me. When I demand my money from him then he instead speak abusive language and is giving threats to kill me. He is openly saying that you can go wherever you want, I shall not pay any money. He is simply refusing to pay my money. Therefore, by giving this written complaint it is requested that accused Jagsir Singh be called to your office, necessary legal action be taken against him, my amount be recovered from him and returned to me and justice be done with me. I shall be highly thankful to you. Yours sincerely, Sd/- Avtar Singh son of Sh. Nachattar Singh resident of Village Ugoke, Tehsil Tapa, PS Sehna, Barnala) District Barnala.

3. Learned counsel for the petitioner contends that the FIR in the present case was registered at the instance of Avtar Singh, respondent No.2 to effect the recovery of Rs.9,50,000/- from the petitioners. He further contends that Jagsir Singh Dhiman, petitioner No.1 is the proprietor of Vishavkarma Agricultural Works, whereas the complainant was the owner of firm Sarbandsani Agricultural Industry. He further contends that the petitioner had no concern with the firm of the complainant. However, there was some financial dispute between the parties and due to this, the present FIR has been got registered by the respondent No.2/complainant by exercising his influence. Learned counsel for the petitioner has placed reliance on the judgments titled as **“Latha and others vs. The Inspector of Police and Anr.,2019 (1) LW (Crl.) 1913”, “Komal and others Vs. State of U.P. and Anr.,2018 (8) ADJ 7”, Vinod Natesan Vs. State of Kerala 2019” Volume-I, RCR Criminal 348 and “Shankar Lal and Anr. Vs. Sunder Lal 1984 Volume-I RCR Criminal 548”** to contend that the ingredients of the offence under Sections 420,120-B of IPC



were completely missing in the present case. Learned counsel further contends that this Court as well as the Hon'ble Supreme Court have held in number of judgments that the civil disputes should not be converted into criminal offences. Still further, it was a case of simple financial dispute between the parties and the FIR has been wrongly registered against the petitioners. Apart from that, even from the allegations levelled by the complainant in the FIR, no offence is made out against the accused in the present case.

4. On the other hand learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that in the present case, the charge has been framed and the petitioners have not challenged the order, whereby the charge was ordered to be framed against the petitioners. Learned counsel further submits that after investigation, it has been found that the petitioners had cheated the complainant and the present petition may be dismissed by this Court.

5. I have heard the learned counsel for the parties and perused the record carefully.

6. In the present case, the Hon'ble Supreme Court has held in the matter of "**Gian Singh Vs. State of Punjab and Anr.,2012 (4) RCR, Criminal 543** as follows:-

"55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non



potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection."

7. Still further, Section 415 of IPC lays down the definition of cheating and the same has been reproduced below:-

"415. Cheating. *Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'. Explanation. A dishonest concealment of facts is a deception within the meaning of this section."*

Section 415 Indian Penal Code thus requires -

1. deception of any person.
2. (a) fraudulently or dishonestly inducing that person -
 - (i) to deliver any property to any person; or
 - (ii) to consent that any person shall retain any property; or
- (b) intentionally inducing that person to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm



to that person in body mind, reputation or property.

8. This Court has held in the matter of “**Deepak Dagar and others Vs. State of Haryana and Anr.**”,**decided on 13.09.2023** as follows:-

“9.On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases, the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning.”

*13.The Hon’ble Supreme Court in the matter of **State of Karnataka v. L. Muniswamy & Others, (1977)2 SCC 699** observed that the wholesome power under section 482 Criminal Procedure Code entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The Court observed in this case that ends of justice are higher than the ends of mere law*



though justice must be administered according to laws made by the legislature. This case has been followed in a large number of subsequent cases of this Court and other courts.

14. In Chandrapal Singh & Others v. Maharaj Singh & Another, (1982)1 SCC 466, in a landlord and tenant matter where criminal proceedings had been initiated, the Hon'ble Supreme Court observed in para 1 at page 467 as under :-

"A frustrated landlord after having met his Waterloo in the hierarchy of civil courts, has further enmeshed the tenant in a frivolous criminal prosecution which prima facie appears to be an abuse of the process of law. The facts when stated are so telling that the further discussion may appear to be superfluous."

15. Still further, the Hon'ble Supreme Court in the matter of M/s Indian Oil Corporation Vs. M/s NEPC India Limited and others, 2006(3) RCR (Criminal) 740 again cautioned about a growing tendency in business circles to convert the purely civil dispute into a criminal case. The Hon'ble Supreme Court noticing the prevalent impression that civil law remedies are time consuming and do not adequately protect the interest of lenders/creditors and, consequently, criminal prosecutions are launched. However, any effort to settle the civil disputes and claims, which do not involve any criminal offence, by applying pressure through that criminal prosecution should be deprecated and discouraged. The Hon'ble Supreme Court has held as follows:-

"9. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few - Madhavrao Jiwaji Rao Scindia v. Sambhajirao Chandojirao



Angre, 1988(1) RCR(Crl.) 565: [1988(1) SCC 692], State of Haryana v. Bhajanlal, 1991(1) RCR(Crl.) 383: [1992 Supp (1) SCC 335], Rupan Deol Bajaj v. Kanwar Pal Singh Gill, 1995(3) RCR(Crl.) 700: (1995(6) SCC 194), Central Bureau of Investigation v. Duncans Agro Industries Ltd., 1996(3) RCR(Crl.) 60: [1996(5) SCC 591], State of Bihar v. Rajendra Agrawalla, 1996(1) RCR(Crl.) 530: [1996(8) SCC 164] Rajesh Bajaj Vs. State of NCT of Delhi, 1999(2) RCR(CrL.) 160: [1999(3) SCC 259] Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd., 2000(2) RCR (Crl. 122: [2000(3) SCC 269], Hridaya Ranjan Prasad Verma v. State of Bihar, 2000(2) RCR (Crl.) 484: {2000(4) SCC 168], M. Krishnan Vs. Vijay Kumar, 2001(4) RCR(Crl.) 405: (2001(8) SCC 645), and Zandu Phamaceutical Works Ltd. v. Mohd. Sharaful Haque, 2004(4) RCR(Crl.) 937: 2005(1) Apex Criminal 75: [2005(1) SCC 122). The principles, relevant to our purpose are:

“(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(m) The power to quash shall not, however, be used to stifle or



scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not. 10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be



deprecated and discouraged. In G. Sagar Suri v. State of U.P., 2000(1) RCR(CrL.) 707: [2000(2) SCC 636], this Court observed:

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under Section 250 Cr.P.C., more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may".

9. In the present case also, the basic ingredients of the offence under Sections 420, 120-B of IPC are completely missing and apparently, there seems to be financial dispute between both the parties. Still further, the powers possessed by the High Court under Section 482 Cr.P.C are very wide and even though, the charge has been framed against the present petitioners, still, this

Court can quash the FIR and all subsequent proceedings, just to do complete justice to the parties.

10. Thus, in view of the above discussion, the present petition is allowed and the FIR No.03 dated 15.01.2023, under Sections 420,120-B of IPC, registered at Police Station Sehna, District Barnala and all subsequent proceedings arising therefrom are hereby ordered to be quashed.

11. Pending application(s), if any, stand(s), disposed of, accordingly.

04.11.2024
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(N.S.SHEKHAWAT)
JUDGE

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