

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-18285-2024 in/and
CRM-M-31932-2020
Date of decision: 15.05.2024

Pardeep Bansal
...Petitioner
Versus
State of Punjab and another
...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vikas Bali, Advocate for the petitioner.
Ms. Manjot Kaur, AAG, Punjab.
Mr. H.S. Oberoi, Advocate for respondent No. 2.

MAHABIR SINGH SINDHU, J.

CRM-18285-2024

Application under Section 482 Cr.P.C. seeking permission to place on record additional facts along with documents in support thereof marked as Annexure P-5 to P-12.

For the reasons mentioned in the application, same is allowed as prayed for subject to all just exceptions. Documents marked as P-5 to P-12 are taken on record.

Main case

Present petition has been filed under Section 482 of Cr.P.C. for quashing of FIR No. 0053 dated 24.03.2019 under Section 420 of Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station, City Phagwara, District Kapurthala.

(2) Allegations as mentioned in FIR are reproduced as under:-

“The applicant herein is owner/proprietor K.V International Star Export house are running a small industry and are registered with the



industry Department Punjab having MSME certificate no. PB11B0000004. The above mentioned industry is situated at 25 Industrial Area, Phagwara Punjab-144401 Kapurthala. 1. it is respectfully submitted before your goodself that I Surjit Singh Sethi Mg. Partner KV International is running the business under the said name since 1992 and we are famous for our dealing and quality of goods. The undersigned applicant has build a reputation with hard work and honesty. It is also pertinent to mention here that undersigned is not only famous for his work in India but is well known in international market for its goods and business dealings. 2. that the present applicant because of his dealings with the general industry through Shri Pardeep Bansal-petitioner discussed with him the quality, quantity and delivery date of goods which he needed for supply to his foreign customer i.e. U-bolts round and U-Bolts square with detailed specification and rates. It had been made clear to the vendor that the quality of the good should be excellent and the goods shall be delivered as per the settled date, whereas after verbal talks with Sh. Bansal at Phatwara in our registered office a written order was placed as on 15.03.2018 with detailed specifications of order from our office at Phagwara. On 16.03.2018 Sh. Bansal replied on the said order and promised the undersigned to deliver the goods within 30 to 40 days. I Surjit Singh Sethi time and again requested the petitioner verbally as well through e-mail to make the order within time but the accused-petitioner delivered an incomplete supply as on 14.05.2018 and within 90 days, K.V. International received only 2 tones of goods against the order and rest remained pending. The supplier of goods time and again made false promises to the applicant. It is pertinent to mention here that petitioner-Pardeep Bansal was regularly informed about his obligation to provide goods in conformity with the delivery dates, specification, quality and quantity. 3. That due delay in delivery of goods, the shipment schedule had been totally up, it was verbally and in writing requested to the vendor-petitioner that due to delay, K.V. Internation will not be able to check and test the quality of goods, so they shall send the goods after checking the quality, which was assured by them. The supplier Pardeep Bansal-petitioner to get wrongful again to himself and to implicate the applicant in big financial loses never comply with the direction made by applicant and delivered goods as per his convenience with unreasonable delay, whereas a sum of Rs. 3 lacs were spent on zinc plating on the goods delivered to KV International which extra charged from the applicant. 4. That KV International is shocked to get the reply from foreign buyer that the goods are of inferior quality and has failed in quality test. The applicant went to the overseas buyer to check the form laboratories in India and complainant-Surjit Singh Sethi got the goods tested which were failed in quality in test report. Pardeep Banal-petitioner was duly informed twice about the bad quality of supplied goods the said goods were sent different labs and are failed in quality and the report were also sent to accused party, but all in vain as Pardeep Bansal with malafide intention supplied such inferior quality products to the present applicant- He intentionally took money in advance from the present applicant, whereas he along with one industrialist Mr. Chhabra had also visited the business premises of KV International to check the complaint made by present applicant and they found that the goods are breaking as they are of very substandard quality, as they agreed and took some pieces of supplied goods with them for lab test, but also later on they did not give any test report to the present applicant. The video sent by the foreign buyer of KV International was also provided to them which clearly shows the low grade quality of goods. Thereafter the applicant tried to contact Sh. Pardeep Bansal but all in vain as he knew all these



facts before supplying the material but to his malafide intention to get wrongful monetary gain to himself he committed fraud with the present applicant. 5. That the applicant requested Sh. Bansal about the losses met by him and as per his suggestion applicant went to Mr. Barpur Singh of M/s BRK Industries Ludhiana with two bags of samples and the supplier of goods agreed to comply with the instruction of said Barpur Singh but all in vain as Sh. Pardeep Bansal did not come on any settlement because of his malafide intentions and tried to ignore all conversations made by the present applicant. That KV International suffered a great loss in international market due to supply of sub standard and inferior quality of goods in place of superior ordered goods. There is not only loss of profit, but the brand quality of KV International is affected, which consequently has caused in calculable loss and damage and has not only weakened the market position of KV International but has also caused bad image before its existing and upcoming customers. 7. That the substandard goods supplied by Pardeep Bansal are still lying in the premises of KV International and he was time and again requested to lift the said goods and to refund the money received and the damages and compensation suffered by KV International due to his dishonest assurance and malafide intentions but all in vain. Pardeep Bansal not only ruined the business of KV International and name of India in international market but has intentionally tried to defame the present applicant-complainant, the malafide act of Pardeep Bansal was to give monetary benefits to himself and financial losses to present applicant the loss faced by the present applicant is not just monetary loss but is also a loss of image and reputation. 8. That it is requested before your goodself that the present applicant may be given justice by lodging criminal complaint/FIR against Pardeep Bansal. Applicant may be given justice confiscating the bank accounts and stock in the factory of Pardeep Bansal, it is also requested that strict action may be taken against Pardeep Bansal for defaming the present applicant-complainant. The dishonest deliberate and fraudulent intentions of Pardeep Bansal against KV International are clear. The applicant is always ready to provide any such information which could help the investigation at any stage.”

(3) Contends that petitioner is the proprietor of M/s General Industry, Focal Point, Ludhiana and complainant/respondent No. 2 placed an order on 15.03.2018 for supplying some goods with the petitioner’s firm. But despite supplying the same, complainant/respondent No. 2 did not make payment of said goods. Feeling aggrieved, petitioner lodged claim on 23.11.2018 amounting to Rs. 11,89,825/- alongwith interest before the Micro and Small Enterprises Facilitation Council (for short, ‘MSEF Council’). Further contends that present FIR, was lodged against the petitioner on 24.03.2019 as a counter blast to the above claim petition. Also contends that dispute is of civil nature, but has been given the criminal colour and as such, the same is liable to be quashed. Still further



contends that respondent No. 2/complainant is in the habit of grabbing money of others which fact is proved from FIR No. 92 dated 04.04.2016, registered at Police Station Focal Point, Ludhiana under Sections 120-B, 467, 468, 471, 477A, 420 read with Section 34 IPC against complainant/respondent No. 2 & some other persons at the instance of one Yashpal Arora S/O Harbans Lal. Again contended that claim of petitioner was accepted on 17.12.2020 (P-6) and an amount of Rs. 17,20,019/- was awarded to him. Against said award, respondent No.2 has filed CWP-12781-2021 titled as "M/s KV International Vs. State of Punjab through Principal Secretary Industry and Others" (P-7), which is pending adjudication for 06.08.2024. Lastly contended that even if for the sake of argument, the contents of FIR are taken to be true, still no case under Section 420 IPC is made out against the petitioner.

(4) In support of the above contention, learned counsel for the petitioner has placed reliance upon various judgments of Hon'ble the Supreme Court as well as Co-ordinate Bench(s) of this Court, which are as under:-

1. *'Dr. Sonia Verma & anr. Vs. The State of Haryana & Anr., Crl. Appeal Nos. 1433 of 2024 arising out of SLP (Crl) Nos. 10570-2023 decided on 07.03.2024 by Hon'ble the Supreme Court of India.*
2. *'International Advanced Research Centre for Powder Metallurgy and New Materials and ors. Vs. Nimra Cerglass Technics (P) Ltd. & anr., Crl. Appeal No. 2128 of 2011 decided on 22.09.2015 by Hon'ble the Supreme Court of India.*
3. *'Binod Kumar and ors. Vs. State of Bihar and anr., Crl. Appeal No. 2327 of 2014 decided on 30.10.2014 by Hon'ble the Supreme Court of India.*
4. *'Surinder Pal Singh and anr. Vs. State of Punjab and ors.', CRM-M-32551- of 2017 decided on 05.09.2023 by Co-ordinate Bench of this Court.*
5. *'Ravi Kukreja and another vs. State of Haryana and anr.', CRM-M-41226 of 2015 decided on 19.11.2019 by Co-ordinate Bench of this Court.*

(5) *Per contra*, learned State counsel submits that after completion of investigation, final report under Section 173 Cr.P.C. was presented against the petitioner on 16.11.2019; charges were framed on 13.02.2020. Further submits that after conclusion of the prosecution evidence, statement of petitioner has already



been recorded under Section 313 Cr.P.C and trial is at the fag end; hence no interference is warranted at this stage.

(6) Learned counsel for respondent No.2/complainant also submitted that petitioner committed fraud while providing sub-standard goods and the same were rejected by various potential clients, causing undue financial loss as well as hampered his reputation.

(7) Heard learned counsel for the parties and perused the paper book.

(8) Allegations are that petitioner supplied inferior quality of goods to the complainant/respondent No.2, which evidently failed the quality test conducted in India as well as abroad. Thus, *prima facie*, it has not only caused monetary loss; rather dented the reputation of complainant. The argument that in a claim petition filed by the petitioner, an award has been passed in his favour by the MSEF Council, does not absolve him from criminal liability. It is not in dispute that after completion of investigation; final report against the petitioner was presented wayback on 16.11.2019 and he has been charge-sheeted on 13.02.2020 in the following manner:-

“that on or after 15.03.2018 in the ambit of PS City, Phagwara, District Kapurthala, you accused with dishonest intention induced the complainant Surjit Singh Sethi to deliver Rs. 25 lakhs approximately in order to supply U-Bolts to M/s K.V. Industries with the knowledge that the same was defective in nature, thereby you committed cheating with the complainant and hence, you have committed an offence your charge with under Section 420 IPC and within the cognizance of this Court.”

(9) Also not in dispute that entire prosecution evidence is over and now, trial is at fag end as statement of petitioner has already been recorded under Section 313 Cr.P.C. Moreover, the contentions raised by learned counsel for the petitioner are relevant to the factual aspect of the matter, which shall be gone into by learned trial Court, at appropriate stage.



(10) Also noteworthy that in the judgments cited by learned counsel for the petitioner the matter(s) involved were purely of civil nature and did not constitute the ingredients of Section 420 IPC; whereas in present case, the intention of the petitioner was dishonest from the very inception and ingredients of Section 420 of IPC are *prima facie* made out against him. Hence, the judgments cited by learned counsel for the petitioner would not be helpful in any manner to decide the present case.

(11) Moreover, there is no dispute with regard to the law laid down in the judicial pronouncements cited by learned counsel for the petitioner, but the same are distinguishable on the facts, as the trial in the present case is now nearing conclusion.

(12) That apart, the petitioner in present case was charge-sheeted under Section 420 IPC wayback on 13.02.2020 by learned Sub Divisional Judicial Magistrate, Phagwara and there is no challenge to the charge-sheet till date.

(13) In view of the above, there is no option except to dismiss the present petition.

(14) Ordered accordingly.

(15) The observations made above be not construed as an expression of opinion on merits of the case; rather confined only to decide the present petition.

(16) Pending application(s), if any, shall also stand disposed off.

15.05.2024
Harish Kumar/v

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No