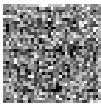


2024:PHHC:154983



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-39803-2020
Date of Decision- 05.08.2024

JAGDISH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Momi, Advocate for the petitioner.
Mr. Surender Singh Pannu, Addl A.G., Haryana.

SANDEEP MOUDGIL, J

1. Jurisdiction of this court has been invoked under section 482 Cr.P.C. for quashing of FIR No.450 dated 16.11.2020 registered under Sections 406, 420, 506, 120-B of the Indian Penal Code and Section 193 IPC (added vide order dated 22.1.2021) at Police Station Pundri, District Kaithal (Annexure P-1) and all other consequential proceedings arising therefrom qua the petitioner and also to quash police report dated 21.11.2020 (Annexure P-3) and direction may be issued to the respondent to release the chicks recovered from the poultry farm of the petitioner and in the alternative, entrust the investigations arising out of FIR to some Special Investigating Team by constituting the same.
2. Factual matrix of the case unfolds that an FIR was registered on the complaint of Director of K.K.Poultry Pvt. Ltd. allegedly indulged in getting brought up chicks from poultry farm on commission basis. It is further

alleged in FIR that the complainant gave chicks to Vikram s/o Jagdish for bringing up the same in his three poultry farms at village Pai. However on 16.11.2020 when Supervisor of the company reached for inspection of poultry farm belonging to Vikas, he found that chicks were not lying in two out of the three poultry farms and neither the servant nor Vikram was present in the farm. It was further alleged that complainant along with Supervisor, went to all the three poultry farms and found that there were only two chicks in two poultry farms and remaining stocks was missing.

3. Counsel for the petitioner contends that the allegations in the FIR are false and there was no agreement between Vikram and the complainant. The one which has been referred in FIR is rather a forged one because it shows that in case of theft of chick from the farm, he will have to pay compensation to the first party through cheque and one signed cheque is already with the complainant. Further, there is no entrustment or misappropriation, as alleged, in the present case because the transaction, if any, between the parties is ordinary business transaction wherein the petitioner purchased 11000 chicks from Raju Poultry Farm but the complainant by forging the agreement and bills pertaining to some other Vikram of village Bhana has totally mislead the police and got lodged the present FIR. Relying upon the judgment of Hon'ble Supreme Court of India in ***A.L.Panian Vs. State of A.P., (1991) SCC (Cri) 84***, it is contended that no offence under Section 406 and 420 I.P.C. is made out against the petitioner and the dispute comes to be of civil nature but a criminal shape has been given to the it.

4. The police has filed a report dated 21.11.2020 (Annexure P-3) in relation to the application filed under Section 451 of Cr.P.C. by the petitioner and the complainant, that the chicks recovered from the poultry farm and after

weighing from Swami Dharam Kanda, chicks are lying in the Ajay Poultry Farm and that the chicks were supplied to the son of petitioner by the complainant for which the payment is to be made by the petitioner side as such there is no question of entrustment and this is a matter of sale/purchase of chicks. In the end, it is contended by the learned counsel that the petitioner is not a signatory to the agreement and as such no criminal liability can be fastened upon the petitioner.

5. On the contrary, learned counsel for the State has submitted that a detailed position has come on record by way of reply in the form of affidavit of the Deputy Superintendent of Police, Kaithal, on behalf of the State and perusal of paras 1 to 4 of the said affidavit make the case crystal clear that the complainant is the Director of K.K. Poultry Private Limited, Jind and the complainant's company is engaged in the business of supplying chicks to the poultry farms for raising them and return back when grown up to the complainant's company, on commission basis. As part of the same agreement, chicks were given to Vikram son of petitioner –Jagdish to be reared and raised at three poultry farms on the basis of a written agreement having executed by said Vikram with the complainant's company and accordingly, 5755 chicks were supplied on 11.10.2020, 8270 chicks were supplied on 17.10.2020 and 8030 chicks were supplied on 25.10.2020, which were kept in three farms and feed and medicines were supplied by the complainant's company for raising the chicks and Supervisor of the Company and doctor used to visit the said poultry farms where chicks were kept, for inspection.

6. He further contends that on 16.11.2020, when the Supervisor (Gurnam Singh) visited the poultry farms for inspection, he found that no servant or care taker was present in the farms and that the chicks were missing

from two poultry farms and when third poultry farm was visited by the Supervisor, he found that the chicks were there in the farm but door was locked and the petitioner was sitting there.

7. It is vehemently argued that on being asked to unlock the door by the Supervisor, the petitioner started abusing the supervisor and ran to hit him with Danda and thereafter the Supervisor ran from the spot and informed the complainant where after complainant himself visited the poultry farms and he was also stopped and scolded by the petitioner and was also threatened. Moreso, Vikram was owner of only one poultry farm whereas two were taken by him on rent. The accused had illegally sold 14000 chicks without the permission of the complainant, therefore, FIR was registered under Section 406 IPC against the petitioner and his son Vikram and during investigation, Sections 506 & 120-B IPC were added.

8. He vehemently argues that on 17.11.2020, 5400 chicks and on 18.11.2020, 2000 chicks were recovered from the poultry farm of the accused and were kept in Ajay Poultry Farm, Kukarkanda which were later on given to the complainant on superdari in compliance of the order dated 03.12.2020. As such, the petitioner is liable to be prosecuted for the offences against him and the present petition may kindly be dismissed.

9. Heard learned counsel for the respective parties and gone through the record.

10. From the perusal of the record in hand as well as facts submitted in the court, it is amply clear that the petitioner is responsible for disrupting the Supervisor (Gurnam Singh) from performing his duties and also attempting to hit him and the complainant with a Danda when they both visited the Poultry Farm on 16.11.2020 for inspection of the chicks added with

the fact that he had also threatened the complainant to shoot him. Had there been no *mala fide* intention on his part, he would have allowed the Supervisor to perform his duties, meaning thereby, ingredients of section 420 IPC stands attracted. It would be apposite at this stage to discuss section 420 IPC, which is reproduced herein below:-

“Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

11. ***In Municipal Corporation of Delhi v. Ram Kishan Rohtagi, (1983) 1 SCC 1 : AIR 1983 Supreme Court 67***, it was held that proceedings against an accused at the initial stage can be quashed only if on the face of the complaint, or, the papers accompanying the same, no offence is constituted. In other words, the test is that taking the allegations and the complaint as they are without adding or subtracting anything, if no offence is made out then the High Court will be justified in quashing the proceedings in exercise of its power under Section 482 of the Code. In another ruling of the Apex court in ***In “R.P. Kapur Versus State of Punjab; AIR 1960 SC 866,”*** the Apex Court has discussed the scope of section 482 Cr.P.C., relevant portion whereof read as follows:-

"6. It is no more res integra that exercise of power under [Section 482](#) CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge sheet constitutes the ingredients of the offence/offences

alleged. Interference by the High Court under [Section 482](#) CrPC is to prevent the abuse of process of any Court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the Court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under [Section 482](#) CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.”

12. In the view of the facts of the instant case as well the dictum discussed herein above added with the fact that, a big number of birds, i.e., as many as 14000 chicks were sold illegally by the accused without the permission of the complainant therefore, by no stretch of imagination it can be taken into consideration that it was an ordinary business transaction between the parties and therefore, the matter needs thorough investigation to reach to its just conclusion and to find out the involvement of other connected persons/accused in the present case.

13. In view of the above stated position coupled with the dictums discussed herein above, the present petition lacks any substance and merits and accordingly, the same is hereby ordered to be dismissed.

05.08.2024

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*