IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-60119-2022
Date of Decision: February 29, 2024

PUNEET BANSAL ....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER ....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. T.S. Attariwala, Advocate for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

Mr. Aalok Jagga, Advocate for respondent No.2.

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HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, challenge has been laid to orders dated 23.07.2021 and 13.09.2022 passed by the Courts below whereby an application dated 11.02.2020, filed at the instance of petitioner-complainant, invoking Section 216 of CrPC for addition of charge under Sections 467, 468, 471 and 201 of IPC stands declined.

2. The present case revolves around FIR No.343 dated 30.11.2018 registered under Sections 419 and 420 IPC at P.S. Jodhewal, District Ludhiana, at the instance of petitioner against respondent No.2. The relevant extract for the purpose of present petition from the aforementioned FIR is reproduced hereunder:-

"That the business of complainant's firm M/s. Roksi Fabrics was running with Nitin Thapar son of Harash Thapar and the Nitin, under the conspiracy/intention to commit cheating said to complainant and his father that he is the proprietor/owner of M/s. Thapar Knitwear and intermittently he used to sell and purchase material to complainant and his father through their firm and during this period, the

complainant, the complainant sold the material also to Nitin Thapra for worth of Rs.34 lacs, in return to which the accused Nitin Thapar issued the payment of Rs.15 lac through cheques being the proprietor/owner of M/s. Thapar Knitwear."

3. Upon filing of challan by the Investigating Agency, the charges were framed against respondent No.2 vide order dated 18.07.2019 for commission of offence under Sections 419/420 of IPC. During trial, the petitioner moved an application invoking Section 216 of CrPC seeking alteration of charge/for addition thereof under Sections 406/467/468/471/201 of IPC. The aforesaid application was opposed at the instance of respondents No.2. The trial Court vide order dated 23.07.2021 dismissed the said application thereby declining the prayer. Aggrieved thereof, the petitioner filed criminal revision No.CRR-21-2022 before the Court of learned Addl. District Judge, Ludhiana which also came to be dismissed vide order dated 13.09.2022.

4. By way of the present petition, while invoking Section 482 CrPC, challenge has been laid to the orders dated 23.07.2021 and 13.09.2022 passed by the Courts below.

5. While referring to Annexure P-10, Page 66 i.e., the cheque dated 10.08.2015, learned counsel for the petitioner submits that the same was issued under the signatures of respondent No.2 reflecting himself to be proprietor of M/s Thapar Knitware, however, later the petitioner came to know that respondent No.2 was never the proprietor and the firm M/s Thapar Knitware was being owned and managed by

Mr. Harish Thapar being its proprietor and thus the respondent apparently impersonated himself being its proprietor. He further submits that the Courts below went wrong while declining the prayer made by the petitioner on the ground that the cheques issued under the signatures of respondent No.2 were bearing the stamp of proprietorship concern in advance and thus, there was no impersonation on the part of respondent No.2. He submits that the approach of the Courts below was wholly illegal.

6. On the other hand, learned counsel representing respondent No.2 submits that the charges in the FIR in question were framed by the trial Court on 18.07.2019, however, the said order never assailed at the instance of the petitioner. He further points out that in the present case, no false document was ever created by respondent No.2 with an intent to cause damage or injury to any person, especially when respondent No.2 acted in accordance with the mandate of letter dated 18.05.2011 given in his favour by the proprietor of M/s Thappar Knitware authorizing him to honour all cheques drawn on the current account held by the proprietorship firm with the Indian Overseas Bank and thus the cheque in question showing the stamp of the proprietorship firm was at best reflecting the cheque drawn on the account of the firm and was never a creation of an act of impersonation. The relevant extract from the letter dated 18.05.2011 relied upon in this regard which even forms part of the challan is reproduced hereunder:-

> "Dear Sirs
>
> <u>MANDATE LETTER</u>

Referring to the current account with you standing in my name/our joint names, I/We hereby request and authorize you to honour all cheques drawn on the said account by NITIN THAPPAR OR ARJUN THAPAR whose signature hereunder written, not withstanding that such cheques may create or increase an overdraft to any extent and I/we authorize the said person on my/our behalf to make, draw, accept, endorse and negotiate cheques, hundies, bills and other negotiable instruments.

This authority shall continue in force until I/we shall have expressly revoked it by a notice in writing delivered to you

Dated the __________ day of _____________ Two thousand and _____________________

Yours faithfully
Harsh Thapar"

6.1 Learned counsel for respondent No.2 further refers to Pg-104 of his reply to contend that the specimen signatures of respondent No.2 were taken in the same format as that found marked in the cheque in question and thus, there was no question of any impersonation or forgery on his part. Learned counsel further submits that regarding the cheques issued under the signatures of respondent No.2 containing stamp of M/s Thapar Knitware on account of dishonour thereof, complaint No.9012/2015 was filed at the instance of M/s Roxy Fabrics i.e. the drawee-firm and the same was withdrawn by the petitioner himself on the basis of compromise been arrived at between the parties with an undertaking that neither of the two would file any case in future. The aforesaid order dated 15.12.2018 passed by the trial Court in the said complaint is reproduced hereunder:-

"M/s Roxy Fabrics Vs. M/s Thapar Knitwear

Statement of Puneet Bansal Attorney of the complainants along with Shri. Gagandeep Singh, Adv. Counsel for the complainants.

Stated that as the matter has been compromised between the parties, so I do not want to pursue with the present complaint. Now nothing remain due towards the accused. The parties shall not file any case in future or shall pursue any case against each other. The present complaint may kindly be dismissed as withdrawn.

RO&AC (Manmohan Bhatti)
JMIC/LDH/15.12.2018"

7. I have heard learned counsel for the parties and gone through the paper-book. I am unable to find substance in the submissions made by the learned counsel for the petitioner.

8. In the present case, the alteration of charge has been sought over by the petitioner for addition of offence under Sections 406/467/468/471/201 of IPC while submitting that respondent No.2 signed the cheques issued in favour of the petitioner being proprietor of M/s. Thapar Knitware; having committed forgery. From a cumulative perusal of the documents on record which form part of the investigation reflects that there is no apparent forgery on the part of respondent No.2 while signing the cheques in favour of the petitioner while carrying the stamp of M/s Thapar Knitware. As per the mandate letter dated 18.05.2011, signed by the proprietor of M/s Thapar Knitware i.e. Mr. Harish Thapar with the Indian Overseas Bank, respondent No.2 was authorized to honour the cheques drawn on the account of the proprietorship firm. In addition thereof, even the format of specimen signatures at that time, provided by respondent No.2 to the banker also contain the stamp of proprietorship i.e. M/s Thapar Knitware and apparently, the cheques in question drawn on account of the proprietorship firm were required to be signed by the authorized signatory in that particular format only i.e. containing the stamp of

proprietorship firm.

9. Furthermore, it may also be pointed here that the cheques issued in favour of petitioner under the signatures of respondent No.2 never got dishonoured on account of mismatch of signatures or on account of lack of any authorization vesting with respondent No.2 and thus, neither any forgery was committed by respondent No.2 while signing the cheque in question containing the stamp of proprietorship concern of M/s Thapar Knitware nor was there any attempt to cause any damage to the petitioner. Still further, a complaint filed qua the dishonour of cheques being signed by respondent No.2 being the authorized signatory, containing the stamp of M/s. Thapar Knitware i.e. the proprietorship firm was withdrawn by the petitioner himself being attorney of M/s. Roxy Fabrics i.e. the drawee-firm in terms of a compromise been arrived at between the parties which clearly found reflected from the order dated 15.12.2018 passed by the trial Court in the said complaint and these aspects have been duly taken note of by the Courts below while passing the impugned orders.

10. Resultantly, in view of the discussions made hereinabove, there being no illegality or perversity in the orders passed by the Courts below and the same having been passed upon proper appreciation of the documents available on record, finding no merit in the present petition, the same is accordingly dismissed.

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

29.02.2024 **(HARKESH MANUJA)**
Tejwinder **JUDGE**

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

TEJWINDER SINGH
2024.03.14 15:22
I attest to the accuracy and
integrity of this document