

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.51730 of 2019
Date of decision: 1st May, 2024

Suresh Kumar

... Petitioner

Versus

Narain Dass & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Shri Kant Rattan, Advocate for the petitioner.
Mr. Arvinder Arora, Advocate for respondent No.1.
Mr. Rajesh Gaur, Addl. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking quashing of complaint No.639 dated 28.10.2014 under Sections 406, 420 IPC titled as 'Narain Dass vs. Yuvraj Parmod Goyal and another' (Annexure P-2) pending in the Court of learned Sub Divisional Judicial Magistrate, Naraingarh, District Ambala.

2. Learned counsel for the petitioner asserts that he has been erroneously summoned vide impugned order. While drawing the attention of this Court to the complaint in question, which has been annexed as Annexure P-2, he submits that it is evident from a perusal of the same that the essential ingredients required to attract the mischief of the offences alleged are clearly amiss therein. Furthermore, while drawing the attention of this Court to the buy-back agreement annexed

as Annexure P-1, learned counsel has acknowledged that there was an agreement made by the petitioner to buy Emu eggs from the respondent/complainant, however, as per Clause 2 of the agreement to sell, the respondent/complainant was free to sell the eggs to others as well. Furthermore, it has been contended by the learned counsel that despite no delivery of eggs to the petitioner, the respondent had filed the complaint in question demanding ₹12,42,000/- from him and it was apparent that a dispute between the parties, which, at best could be termed to be a civil one, was being given a criminal colour.

3. Furthermore, learned counsel has also drawn the attention of this Court to Annexure P-3, and submitted that it is a matter of record that the petitioner had also entered into a similar agreement with one Raj Kumar who had previously supplied eggs to the petitioner, in which regard certain receipts were also issued. Learned counsel has asserted that in fact the allegations levelled in the FIR have been levelled by the respondent/complainant in collusion with said Raj Kumar; furthermore, the receipts issued by said Raj Kumar have been placed reliance upon in the complaint in question just to extort money from the petitioner. It has also been submitted that the complainant had no locus to file the complaint based on receipts which were issued by said Raj Kumar as they relate to a separate agreement. It has also been argued that as per the buy-back agreement (Annexure P-1), it had been stipulated therein that Mumbai would have the jurisdiction for any disputes between the parties, hence, the instant complaint could not

have been entertained by the Court below and the summoning order deserved to be set aside.

4. Per contra, learned counsel for the respondent/complainant, while opposing the prayer and submissions made by the counsel opposite, have contended that the petitioner had deceived the complainant by persuading him to invest in the Emu egg business, resulting in losses exceeding ₹12,42,000/-. It has been asserted that both Raj Kumar and respondent No.1 were business partners, and as both of them had played a fraud, the complaint was perfectly in accordance with law. Additionally, during pre-charge evidence, Raj Kumar had also testified in support of the case of the complainant, which further corroborated the allegations levelled in the complaint in question. It has been further submitted by learned counsel for the respondent/complainant that he along with Raj Kumar was approached by the petitioner/accused persons, who lured them by assuring good profits in the Emu eggs business and assured that they will purchase the Emu eggs at a minimum rate of ₹1000/- per egg, however, the accused had taken a U turn. Learned counsel for the respondent has further submitted that Clause 16 of the Agreement was not an arbitration clause, therefore, since the cause of action had arisen in Naraingarh, the instant complaint was maintainable.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Prima facie, there are specific allegations against the petitioner of having lured and then duped the complainant by inducing him into an agreement for the supply of Emu eggs, and subsequently, failing to pay the amount owed, totaling to more than ₹12,42,000/-/

7. Learned counsel for the petitioner has raised disputed questions of fact, which fall beyond the scope of this Court’s inherent jurisdiction under Section 482 Cr.P.C. Whether the eggs were indeed supplied by the respondent, and whether the receipts relied upon by the complainant are relevant or not to their case, are all matters to be determined during trial after both the parties have presented their evidence. Therefore, this Court would not be inclined to delve into the truthfulness or falsehood of the allegations made in the complaint at this stage.

8. As a sequel to the above, the petition stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

May 1, 2024
rps

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