



CRM-M-61352-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

137

CRM-M-61352-2024

Date of decision: 9th December, 2024

Dhani Ram

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Karan Pathak, Advocate for the petitioner.

MANISHA BATRA, J (ORAL):-

Prayer in the instant petition has been made for quashing of order dated 02.08.2016 passed by the learned Sub Divisional Judicial Magistrate, Tosham in criminal complaint bearing No. 124 of 2015 titled as '*Dhani Ram Vs. Bhagat Singh and others*' and the order dated 27.09.2024 passed in criminal revision petition No. CRR/221/2016 titled as '*Dhani Ram Vs. Bhagat Singh and others*' by the court of learned Additional Sessions Judge, Bhiwani, thereby affirming the order dated 02.08.2016 passed by the learned Magistrate.

2. The facts relevant for the purpose of disposal of this petition are that the present petitioner had filed a complaint against the private respondents and also prayed for registration of an FIR against them under Section 156(3) of the Code of Criminal Procedure. Vide order dated



26.03.2012, an FIR was ordered to be registered by the concerned Magistrate. Investigation had been conducted and a cancellation report was submitted. The complainant did not agree with the cancellation report and contested the same. By treating the same as a complaint, the learned Magistrate had proceeded to record preliminary evidence and on considering the oral as well as documentary evidence so produced and after giving due deliberations to the contentions raised by the present petitioner, the said complaint had been dismissed vide order dated 02.08.2016.

3. Feeling aggrieved, the petitioner had filed the aforementioned revision petition which too has been dismissed vide order dated 27.09.2024.

4. It is argued by learned counsel for the petitioner that the impugned orders are not sustainable in the eyes of law as while passing the same, learned Magistrate as well as the revisional Court did not apply their judicious mind and passed non-speaking orders. The fact that overwhelming evidence of such nature which was *prima facie* sufficient to prove that the respondents had committed offences of cheating and forgery, had not been considered at all cryptic orders were passed. With these broad submissions, it is urged that the impugned orders are liable to be set aside.

5. I have heard learned counsel for the petitioner at considerable length and have gone through the record carefully.

6. On a perusal of record, it is revealed that the petitioner had filed the aforementioned complaint, on the allegations that his wife Smt. Prem Kumari had started a business under the name and style of M/s Subhash Stone Crushing Mills, in partnership with the respondents. A written



partnership deed was executed on 19.07.1985. All the partners had executed a power of attorney in favour of respondent No.2, whose intentions became dishonest subsequently and he stopped giving accounts of the partnership business to the wife of the petitioner. A civil litigation was pending in this regard. During the pendency of the civil litigation, the respondent No.2 placed on record photocopy of a retirement deed dated 31.03.2003, purported to be bearing signatures of wife of the petitioner, though no such retirement deed had ever been signed by her. While alleging that the respondents No. 2 to 4 in connivance with each other had committed offences of cheating and forgery, he prayed for taking action in the matter.

7. The learned trial Magistrate while passing the order dated 02.08.2016, observed that neither the wife of the petitioner who was the most material witness of the case nor Mr. R.K. Kataria, Advocate who was the author of the retirement deed, had been examined by the petitioner during the course of preliminary evidence and as such, the allegations as levelled by the petitioner had not been proved beyond doubt and no *prima facie* case for issuing process against the respondents had been made out. It was also observed that even otherwise, the wife of the petitioner was having only 25% share in the partnership business and even after the execution of deed of retirement, her situation remained the same which showed that no wrongful loss was caused to her as her share was not reduced. The findings so given have been affirmed by learned revisional Court by observing that since neither the author of the retirement deed had been summoned as a witness nor the wife of the petitioner had appeared into the witness box nor



any application was moved on her behalf for comparison of her standard signatures with disputed signature over the retirement deed or with her signatures over the partnership deed nor she had come forward to depose and as the petitioner through his wife had derived 25% of share of the retirement deed in the business and she had even filed a suit for rendition of accounts, which was dismissed, therefore, the allegations levelled had not been established.

8. On going through the record and after hearing the contentions raised by learned counsel for the petitioner, I am of the considered opinion that no ground has been made out to interfere with the impugned orders as the same are well reasoned and have been passed after making detailed discussions and by thorough assessment of evidence produced on the record. Accordingly, finding no reason to allow the petition, the same is dismissed.

9. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

9th December, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |