IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

247

CRM-M-8181-2020
Date of decision: 01.09.2025

M.S RASHMI FABRICS ......Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS ....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present: - Mr. Manpreet, Advocate for
Mr. Anil Kumar Garg, Advocate
for the petitioner.

Mr. I.P.S Sabharwal, DAG, Punjab.

Mr. Naren Pratap Singh, Advocate
for respondent No.5.

Mr. Vishal Aggarwal, Advocate
for respondent No.6.

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VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed seeking directions to respondents No. 1 and 2 to register a criminal case in view of the facts narrated in the complaint and thereafter to initiate criminal proceedings against the private respondents.

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner-Firm availed a Cash Credit limit of ₹70 lakhs from the Central Bank of India against which an insurance policy was issued by respondent No.6–M/s Cholamandlam MS General Insurance Company Ltd.

for a sum insured of ₹1.15 crores. The said insurance policy remained valid from 28.09.2016 to 27.09.2017 and even the premium had been duly debited to the petitioner's account. It is contended that on 15.07.2018, a fire broke out in the premises of the petitioner, resulting in complete damage to the entire stock and machinery. Intimation of the said incident and loss was immediately furnished to the Insurance Company. The petitioner asserts that the total loss suffered by it amounted to approximately ₹88.45 lakhs, which was also certified by M/s HRB and Associates, Chartered Accountants, Ludhiana. The insurance authorities, however, initially assessed the loss only to the extent of ₹3.03 lakhs. Subsequently, the Surveyor appointed by the Insurance Company assessed the loss at ₹52.85 lakhs. Yet, despite the said assessment, the Insurance Company failed to indemnify the petitioner for the entire loss actually sustained and refused to pay the assessed loss. It is further argued that respondent No.5–Manager of the Central Bank of India accorded his consent to the Insurance Company for settlement of the claim at the above figure of Rs. 3.03 lakhs completely disregarding the petitioner's objections, and in connivance with the other private respondents, facilitated a wrongful loss to the petitioner. As a result thereof, only a sum of approximately ₹3.03 lakhs was received towards full and final settlement of the claim.

3. The petitioner thus submitted a complaint to the respondent-State authorities seeking registration of a criminal case. However, no action was taken on the ground that the petitioner had already filed a consumer complaint before the Punjab State Consumer Disputes Redressal Commission and that the matter being civil in nature did not warrant

criminal proceedings.

4. The petitioner thus moved an application under Section 156(3) Cr.P.C. seeking directions for registration of a criminal case and investigation into the same. The learned Illaqa Magistrate, vide order dated 11.10.2019, declined to issue any direction under Section 156(3) Cr.P.C. and instead treated the application as a complaint under Section 200 Cr.P.C. Hence, the present petition.

5. Learned counsel contends that the Illaqa Magistrate ought to have issued directions to the police authorities to register a criminal case against the respondents since the petitioner has been cheated by the respondents and has been hence subjected to unnecessary harassment.

6. Counsel appearing for the respondent–Insurance Company however submits that the present dispute is essentially civil in nature and hinges entirely upon documentary evidence. It is contended that the petitioner had, in fact, filed Consumer Complaint No. 244 of 2019 before the Punjab State Consumer Disputes Redressal Commission. The said complaint was adjudicated vide Award dated 28.07.2021, whereby liability was fastened upon the Bank, which was directed to pay a sum of ₹52,85,830/- along with interest at the rate of 6% per annum, from the date of filing of the complaint until its realization. In addition, the Bank was also directed to pay a sum of ₹55,000/- as compensation for mental agony and harassment, and ₹11,000/- towards litigation expenses. It is further submitted that aggrieved against the said award, the respondent–Bank approached the National Consumer Disputes Redressal Commission and even the appeal preferred by it was dismissed. The subsequent review petition filed by the Bank before

the National Commission was also dismissed. The Bank has now filed a CWP-15385-2025 pending before a Division Bench of this Court, which is listed for hearing on 19.11.2025.

7. Learned counsel further contends that there exists no vested right in an aggrieved party to claim that whenever an application or complaint is submitted before the Illaqa Magistrate, the Magistrate is bound to direct the Investigating Agency to register a criminal case. The decision to register a criminal case being a matter of discretion vested in the Illaqa Magistrate, such discretion ought not to be ordinarily interfered with by the High Court.

8. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present petition.

9. The present dispute relates to the Bank Manager having accepted a meagre claim against indemnification of loss sustained by the petitioner on account of the incident at his premises, despite the Surveyor reporting higher loss and petitioner objecting to the offer by the Insurance Company.

10. It is undisputed that the respondents–Central Bank of India accepted a sum of ₹3.03 lakhs towards full and final settlement of the claims raised by the petitioner. Thereafter, the petitioner preferred Consumer Complaint No. 244 of 2019, which was partly allowed, resulting in an award of approximately ₹52.85 lakhs against respondent No.1–Bank. It is also not in dispute that the petitioner filed an appeal before the National Consumer Disputes Redressal Commission, which partly modified the award only to

the extent of enhancing the compensation for mental harassment and litigation expenses; however, the assessment of the loss remained unchanged.

11. Undisputedly, the petitioner also submitted a complaint before the Illaqa Magistrate. Instead of exercising powers under Section 156(3) Cr.P.C. to direct the respondents to register an FIR and conduct an investigation, the learned Magistrate treated the submission merely as a complaint and proceeded to take cognizance thereof.

12. Learned counsel for the petitioner has failed to cite any precedent ruling or legal principle laying down an absolute proposition that upon disclosure of a prima facie cognizable offence in a complaint brought before it, the Illaqa Magistrate is bound to direct the respondents, in exercise of powers under Section 156(3) Cr.P.C., to register an offence and is not empowered from taking cognizance himself. The power conferred under Section 156(3) Cr.P.C. is discretionary, and the Illaqa Magistrate is equally competent to treat such an application as a complaint and to take cognizance thereof.

13. Even otherwise, the present case is based entirely upon documentary evidence for which custodial interrogation of any person is not required.

14. I do not find any fault in the discretion exercised by the learned Illaqa Magistrate in taking cognizance of the complaint and granting the petitioner an opportunity to establish his case on the basis of cogent and trustworthy evidence. In the absence of any illegality, perversity, or misappreciation of the record and evidence, the exercise of discretion by the

learned Magistrate cannot be interfered with merely because an alternative view might also have been possible. It is well settled that the High Court, even in exercise of its inherent powers, would not ordinarily substitute its opinion for that of the trial Court or competent Magistrate and a party cannot be presumed to have suffered prejudice merely because the Illaqa Magistrate opted to take cognizance of the offence instead of directing registration of an FIR.

15. For the foregoing reasons, the present petition is devoid of merit and is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 01, 2025
Vishal Sharma

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