

2025:PHHC:064821



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M-22141-2025
DATE OF DECISION:28.04.2025**

KUMAR SHAILENDRA

....PETITIONER

VERSUS

STATE OF PUNJAB AND ANR.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Tejas Ahalawat, Advocate and
Mr.Chaitanya Poonia, Advocate for the petitioner.

Mr.Jaspal Singh Guru,AAG Punjab

SANDEEP MOUDGIL, J

1. The instant petition has been preferred under section 528 of BNSS,2023 seeking quashing of FIR No. 120 dated 28.06.2024 (Annexure P-1) registered under Section 420,465,467,468,471,120-B of IPC 1860, at police station Phase 1,District SAS Nagar,Mohali and all other consequential proceedings arising therefrom.

2. The factual matrix pertaining to the present case is that one Hartek Power Private Limited had engaged Efficax Engineers Private Limited, through its Managing Director Mr. Kumar Shailendra(petitioner)and Manager Mr. Vinod Kumar Tarun, for civil works at the Azure Power site in Pavagedia during 2018-19. Efficax Engineers failed to complete the assigned work, leading Hartek Power to finish the project independently. After nearly five

years, Efficax Engineers, via Mr. Vinod Tarun, emailed Hartek Power claiming they had completed the entire job and demanded payment of ₹64,10,848/-. They attached a "Work Completion Certificate" dated 19/09/2019, purportedly issued by Mr. Ashutosh Chaudhary, then DGM at Hartek Power. Upon inquiry, Mr. Ashutosh Chaudhary confirmed via email that he never issued such a certificate and that the attached document was fake and did not bear his signature or handwriting. It was discovered that Efficax Engineers and its management had allegedly conspired to forge and fabricate the Work Completion Certificate to extort money from Hartek Power. Furthermore, the forged certificate was also submitted in proceedings before the Micro and Small Enterprises Facilitation Council (Application No. UDYAM-UP-28-0017060/M/00001). Based on these facts, Hartek Power sought registration of a criminal case under Sections 467 (forgery of valuable security), 468 (forgery for purpose of cheating), 471 (using forged document as genuine), and 120B (criminal conspiracy) of the Indian Penal Code against the responsible persons of Efficax Engineers Private Limited including the petitioner.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and the dispute in question appears to be a purely civil matter that has been misrepresented as a criminal offence, with the intention of pressuring the petitioner to resolve the ongoing civil litigation in favour of the complainant. He further argues that the complainant has resorted to the shortcut of criminal proceedings in an attempt to influence the outcome of the civil dispute.

4. It is contended that the police, without thoroughly investigating the matter, hastily registered the FIR, in violation of the procedure laid down by the Supreme Court. The investigating agency failed to conduct the required

preliminary inquiry before registering the FIR.

5. On the other hand, learned State counsel appearing on advance notice submits that the petitioner has played active role in the present case as he was the managing director of the company namely Efficax Engineers Private Limited and there are serious allegations levelled against the petitioner that he forged work completion certificate.

6. Having heard the arguments of both the parties this court is of the considered view that the contentions raised by the learned counsel for the petitioner do not carry much weight as there are specific allegation of forgery regarding one document i.e work completion certificate on the basis of which the petitioner is seeking their alleged dues and the person who has been alleged to issue that has clearly denied that the work completion certificate was never issued by him and the same is fabricated and forged therefore the facts are disputed and prima facie offence is made out at this stage at-least and this court cannot scuttle the proceedings at this stage by allowing the quashing as the facts disputed can only be put to rest once both the parties are allowed to plead their specific defences at the appropriate stage and hence this court refrains from interference with the same.

7. As regards another contention that the dispute was primarily of a civil nature and civil suit is pending adjudication and the complainant intentionally resorted to criminal proceedings also does not hold good as mere pendency of a civil suit cannot be made a ground for quashing the criminal proceedings, as in this way the unscrupulous litigants, apprehending criminal action against them, would be encouraged to frustrate the course of justice.

8. In a criminal court the allegations made in the complaint have to be established independently, notwithstanding the adjudication by a civil court. If the complainant fails to prove the allegations made by him in the complaint,

the accused/petitioner is entitled to discharge or acquittal but not otherwise. Additionally inherent powers for quashing the proceedings at the initial stage can be exercised only when the allegations made in the complaint or the first information report do not *prima facie* disclose the commission of a cognizable offence or the allegations are so absurd and inherently improper making out a clear case of false implication. It is permissible for a civil suit and a criminal case to proceed at the same time. This is particularly relevant when the same set of facts gives rise to both civil and criminal liabilities. The law does not prohibit the initiation of both types of proceedings concurrently, as they serve different purposes and can address different aspects of a dispute. This principle is well established by the apex court judgement rendered in the case of “***P Swaroopa Rani vs. M Hari Narayana (2008) 5 SCC 765***”.

9. This Court is also conscious of the fact that the Police has the statutory right and duty under the relevant provisions of the [Code of Criminal Procedure](#) contained in Chapter XIV of the Code to investigate into a cognizable offence;

“i) Courts would not thwart any investigation into the cognizable offences;

ii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;

iii) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the `rarest of rare cases (not to be confused with the formation in the context of death penalty).

iv) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

- v) Criminal proceedings ought not to be scuttled at the initial stage;*
- vi) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*
- vii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;*
- viii) The functions of the judiciary and the police are complementary, not overlapping;*
- ix) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*
- x) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*
- xi) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported.”*

10. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR and should only see whether prima facie offence is made out at that stage or not. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

- “i) The power under section 482 Cr.P.C., 1973 is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;*
- ii) However, at the same time, the court, if it thinks fit, regard being to the parameters of quashing and the self restraint imposed by law,*

more particularly the parameter laid down by Apex Court in the case of “State Of Haryana And Ors vs Ch. Bhajan Lal And Ors” AIR 1992 SUPREME COURT 604 has the jurisdiction to quash the FIR/complaint;

iii) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under section 482 Cr.P.C., 1973 only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

iv) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under section 482 Cr.P.C., 1973 and/or under Article 226 of the Constitution of India.”

11. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Based upon a prima facie impression, an element of criminality cannot entirely be ruled out here subject to the determination by the trial Court. Therefore, when the proceedings are at a nascent stage, scuttling of the criminal process is not merited.

12. In view of the discussion made herein above and the dictums laid down by the Apex Court, this court finds no cogent reason to interfere with the proceedings on going in this matter, as disputed questions of facts relating

to work completion certificate as alleged to be forged are involved that can only be adjudicated once the parties are able to lead the evidence before the trial Court.

13. Accordingly, the present petition stands dismissed.

14. Pending applications, if any shall also stands disposed off, accordingly.

28.04.2025
Sham

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>