



CRM-M-55550-2019

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

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CRM-M-55550-2019 (O & M)
Date of decision: 02.09.2025

PHOOL SINGH

....Petitioner

Versus

PANKAJ SEHGAL AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Shashi Kumar Yadav, Advocate,
for the petitioner.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C., for setting aside the order dated 04.06.2015, Annexure P-2 passed by learned Judicial Magistrate Ist Class, Faridabad, dismissing the Crl. Complaint No.75 dated 26.03.2011, titled as 'Phool Singh vs. Pankaj etc.', and the order dated 24.05.2016, Annexure P-3, whereby learned Addl. Sessions Judge, Faridabad has dismissed the criminal revision.
2. The facts, in brief, are that the complainant-petitioner filed the complaint under Sections 406, 420, 468, 471 and 506 IPC against the respondents with the allegations that he alongwith one Sarvesh was engaged by respondent No.1 for the construction of the official hut at Sector 21-C, Faridabad and during this period, respondent No.1, proprietor of M/s Sehgal Automobiles allured the complainant to purchase

a motor-cycle from his company, to which he agreed. On 17.05.2017, the motor-cycle registered in the name of City Trade Link was handed over to him in the presence of Sarvesh and a sum of Rs.35,400/- was charged in cash and receipt and other documents were to be given to him after the transfer of the vehicle in his name. However, respondent No.1 did not transfer the vehicle in the name of the complainant. On having enquired, the complainant came to know that he had been cheated because the documents were forged and did not belong to Pankaj Sehgal. Hence, the complaint was filed.

3. In order to prove his case, the complainant appeared himself in the witness-box as CW 1 besides examining Sarvesh as CW 2, and also led documentary evidence.

4. After scrutinizing the evidence led by the complainant, the trial Court dismissed the complaint vide impugned order dated 04.06.2015. Aggrieved thereagainst, he filed a revision, which was also dismissed by learned Addl. Sessions Judge, Faridabad, vide impugned order dated 24.05.2016.

5. Hence, the present revision petition.

6. Learned counsel submits that the Courts below have wrongly dismissed the complaint without appreciating the evidence on record, which is sufficient to summon the respondents. It is proved on record that the respondents have cheated the complainant by forging the documents.

7. Heard.

8. It is apposite to refer to the order dated 04.06.2015 passed by learned Judicial Magistrate Ist Class, Faridabad, the relevant of which

reads thus:

“7. Perusal of document Ann.C/3 shows that same is ownership record and data. It is in the name of M/S City Trade Link and ahead of this, name of complainant is mentioned. As per complaint, motorcycle was handed over to him but perusal of report under section 202 Cr.P.C. shows that partner namely Pankaj Goyal, in City Trade Link has stated that he purchased the motorcycle from Sehgal Auto Mobile and he has used the motorcycle in the company and after one year he has sold the same. This means that this motorcycle was never handed over to complainant by the accused. Moreover, it is admitted fact that motorcycle was in the name of City Trade Link. When the motorcycle was in the name of M/S City Trade Link then why the complainant has purchased the same. Moreover, as per report under section 202 Cr.P.C. Ann.C/3 ownership record and data is not a title document. Ann.C/4 the service receipt of motorcycle shows that it was also in the name of City Trade Link, not in the name of complainant. Moreover, Ann.C1/2 which is legal notice sent by the complainant to accused no.1 nowhere shows that motorcycle has been given back by the complainant to accused on 10.8.2010 on the asking of complainant. Further more, perusal of report u/s 202 Cr.P.C. shows that a invoice dated 17.5.2007 has also been attached showing that the motorcycle has been sold to M/S City Trade Links. Further more, documents attached with the report under section 202 Cr.P.C. shows that Sarvesh who is CW-2 has filed a case against Sehgal Auto Mobile of which the accused no.1 is proprietor and against Phool Singh, present complainant. Order passed in that case shows that learned Labour Court has observed that applicant (in that case now CW-2) and respondent no.2 (in that case now complainant) are in hands glove with each other and tried to creat evidence against respondent no.1 i.e. Pankaj Sehgal i.e. (accused no.1 Proprietor). This shows that complainant in collusion with witness has filed the present complaint with ulterior motives. There is no prima facie case that the accused no.1 had handed over the motorcycle to the complainant against Rs.34,500/- and moreover, there is no document or expert opinion showing that Ann. C/3 has been forged by the accused no.1. 8. Therefore, in view of above discussion, no case is made out against the accused persons, hence, present complaint stands dismissed. File, after due compliance, be consigned to the record room.”

9. Likewise, the operative part of the order dated 24.05.2016 passed by learned Addl. Sessions Judge, Faridabad, dismissing the revision petition filed by the petitioner, reads thus:

“7. From perusal of lower court record, it is revealed that the appellant/complainant on 26.3.2011 filed complainant under sections 406/420/468/471 and 506 IPC against accused Pankaj Sehgal and proprietor of City Trade Link. After presentation of complaint, the appellant/complainant was directed to adduce preliminary evidence, wherein he had examined himself as CW1, CW2 Sarvesh and also relied upon the documents Annexure C1/1, C1/2, C/3, C/4, C1/5. After the appellant closed the preliminary evidence vide order dated 9.4.2013, ld. trial court sought the report of police under section 202 Cr.P.C. From perusal of impugned order dated 9.6.2015, it is clear that in para no. 7 of the order, ld. trial court has thoroughly scrutinized not only the preliminary evidence adduced by appellant but also the report under section 202 Cr.P.C. sent by the police alongwith the documents. As per the own case of appellant, the motorcycle bearing no. HR-51Y-6815 was handed over to him by accused no. 1 Pankaj Sehgal which was registered in the name of City Trade Link and he has also placed on record Ex. C/3 in this regard. There is no such plea of appellant that he is illiterate. Also there is no such plea of appellant in his complaint that accused no. 1 Pankaj Sehgal alleged that he is the registered owner of motorcycle or that he was employed with City Trade Link.

8. In Annexure C1/5 placed by the appellant which is ownership record of motorcycle the name of M/s City Trade Link is clearly mentioned. Also admittedly in receipt Ex. C/3 given by accused Pankaj to appellant name of M/s City Trade Link has been mentioned. That being so how and under what circumstances the appellant agreed to purchase the motorcycle which was registered in the name of some one else and not accused Pankaj Sehgal is not explained. Further, even if for the sake of arguments, it is taken that the appellant was lured by accused Pankaj Sehgal to purchase the motorcycle even than the preliminary evidence adduced by appellant to prove the allegations levelled against accused is not sufficient since the report of police under section 202 Cr.P.C. belie the allegations and case set up by the appellant. More so in disbelieving the case of appellant/complainant ld. trial court has also referred to the order passed by ld. labour court in a case filed by witness Sarvesh (examined by appellant as CW2) against Pankaj Sehgal Automobiles of which accused/respondent Pankaj

Sehgal is the proprietor and against Phool Singh (the present appellant) and in the said case observation had been made by Id. Labour Court that the present appellant and witness Sarvesh as CW2 are acting hands in glove with each other and create evidence against respondent/accused Pankaj Sehgal. Last but not the least, there is also much delay in filing the complaint by appellant/complainant before Id. Illaqa Magistrate since in para no. 12 of the complaint, the appellant has specifically mentioned that on 10.8.2008, Mr. Sehgal, i.e. respondent/accused no. 1 refused to accede to the request of complainant but the present complaint had been preferred by the appellant/complainant on 26.3.2011, i.e. after about three years. As such, there is no weight in the submissions made by counsel for appellant that Id. trial court has erred in appreciating the evidence adduced by appellant.

8. In view of above discussion, this court is of the considered view that no fault can be found with the well reasoned and speaking order passed by Id. trial court. Henceforth there is no merit in the present appeal filed by filed by the appellant and the same is hereby dismissed. Lower Court file be sent back along with copy of this order and revision file be consigned to the record room.”

10. It is axiomatic from the orders passed by the Courts below that the ownership record of motor-cycle is in the name of M/s City Trade Link. The police report under Section 202 Cr.P.C. also belies the case of the petitioner which shows that the motor-cycle has been sold to M/s City Trade Links. Further that the Labour Court in a case filed by Sarvesh, CW 2 against Sehgal Auto Mobile of which respondent No.1 is the proprietor, and the complainant, has noticed that Sarvesh and the complainant are hands in glove with each other and tried to create evidence against respondent No.1. There is nothing on record to show that respondent No.1 had handed over the motor-cycle to the complainant against Rs.34,500/- and that Annexure C-3 has been forged by respondent No.1.

11. The petitioner having already availed of his remedy by filing

a criminal revision petition, though unsuccessfully before the learned Additional Sessions Judge, Faridabad, this petition would amount to a second revision petition under the guise of petition under Section 482 Cr.P.C., as per Section 397(3) Cr.P.C., is the view of this Court, which finds support from the judgment in the case of **Krishnan vs. Krishnaveni and another** 1997(4) SCC 241, by Hon'ble the Supreme Court, wherein it was held that in appropriate cases in order to meet the ends of justice or to prevent abuse of the process, the High Court is preserved with inherent power, which should be exercised sparingly so as to avoid needless multiplicity of procedure, unnecessary delay in trial and protraction of proceedings.

12. Hon'ble the Supreme Court had in the case of **Shakuntala Devi and others vs. Chamru Mahto and another**, 2009(2) SCC (Cri) 8, held thus:

"24. It is well settled that the object of the introduction of sub-section (3) in Section 397 was to prevent a second revision so as to avoid frivolous litigation, but, at the same time, the doors to the High Court to a litigant who had lost before the Sessions Judge were not completely closed and in special cases the bar under Section 397(3) could be lifted. In other words, the power of the High Court to entertain a petition under Section 482, was not subject to the prohibition under sub-section (3) of Section 397 of the Code, and was capable of being invoked in appropriate cases. Mr Sanyal's contention that there was a complete bar under Section 397(3) of the Code debarring the High Court from entertaining an application under Section 482 thereof does not, therefore, commend itself to us."

13. There is no special circumstance in this case, which could persuade this Court to grant relief in the present case, in exercise of the inherent power under Section 482 Cr.P.C.

14. In view of the foregoing discussion, this Court finds no illegality or perversity in the orders passed by the Courts below warranting any intervention. As such, the present petition sans merit and is hereby dismissed.

02.09.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

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