

(2018) 01 SHI CK 0060
In the High Court Of Himachal Pradesh
Case No : 100 of 2017

Brij Kishore Chauhan

APPELLANT

Vs

State of Himachal Pradesh & ors.

RESPONDENT

Date of Decision : 10-01-2018

Acts Referred:

Code of Criminal Procedure, 1973, Section 482 - Saving of inherent powers of High Court
Indian Penal Code, 1860, Section 420 - Cheating and dishonestly inducing deliver

Citation : (2018) 01 SHI CK 0060

Hon'ble Judges : Chander Bhusan Barowalia

Bench : Single Bench

Advocate : Ashok Kumar Thakur, Virender Kumar Verma, Rajat Chauhan, Anshul Bansal

Final Decision : Disposed off

Judgement

1. The present petition is maintained by the petitioner under Section 482 of the Code of Criminal Procedure (hereinafter to be called as ""the

Code"") read with Article 227 of the Constitution of India, directing respondents No.2 and 3 to conduct inquiry/investigation, in Case FIR

No.63/2012, dated 31.5.2012, under Section 420 of the Indian Penal Code and Section 66D IT Act, registered at Police Station, Dehra, District

Kangra, H.P and arrest the accused, namely, Frank Albert, D.G.M, Scotland Bank, United Kingdom and William and others, for committing

cheating and fraud.

2. Briefly stating the facts, giving rise to the present petition are that the petitioner purchased Mobile Sim, in which, petitioner received email from

Air Vice Courier Express U.K, on 11.8.2011, on Mobile No.9418192488, that he

won price in T. Mobile Company of Rs.1,000,00,00/- (One Million British Ponds) and ICICI Pro Cricket Mobile Award of Five Million G.B. Ponds. As per the petitioner, one person i.e. Frank Albert D.G.M. Scotland Bank, U.K, whose Mobile No.00449719156168 and his representative William, whose Mobile No.095512018, talked the petitioner, so many times and insisted him to deposit money in the shape of service charges in different bank account. The petitioner deposited huge amount of rupees five lacs approximately. It is further averred that accused persons, namely, Frank Albert, has committed cheating and fraud for obtaining rupees five lacs, who is residing in Delhi. The petitioner tried to contact personally, but unable to meet them. The accused persons are very clever and cheated many persons. They also sent the petitioner ATM Master Gold Card having No.5133900484636538, but they have not sent Pin Code number to operate the ATM Master Gold Card. Accused Frank Albert, gave a telephonic call on the mobile of the petitioner and asked him send Rs.48,000/- in Zothan Puia's A/c No.20167835690, State Bank of India, Branch Janakpuri, Delhi. On 11.9.2013, accused again told the petitioner, send Rs.47,000/- in State Bank of India Account bearing No.20137214055, in the name of Atoko Zimo and the petitioner again deposited the said amount in different Bank account, but inspite of this, no money has been received and further, accused demanded more money Rs.65,000/- and told the petitioner to deposit in Account No.20137215638 of Mr. Kai Khomao. After registration of FIR, against the accused, nothing has been done, thereafter, the police file sent to Superintendent of Police, Kangra at Dharamshala, to get the matter investigated through the competent officer. Hence, the present petition.

3. Reply to the petition has been filed and submitted that after depositing nearly Rs.80,000/- in various accounts, the petitioner realized that he has been cheated and lodged a complaint in Police Station, Dehra, District Kangra. Perusal of the record further revealed that even after registration of the case, the petitioner kept on depositing money in various accounts on the direction of suspects without informing the local police and further deposited around rupees 4.2 lakhs in various accounts. The State Police after completing their investigation maintained untraced report before the learned Court below, which was rejected, vide its order dated 20.2.2016 and

send the file to Superintendent of Police, Kangra, with a direction to get the matter investigated through a competent officer.

4. Learned counsel appearing on behalf of the petitioner has argued that the investigation in this case could not be conducted in a fair manner, as the Investigating Officer is not in a position to nab the culprits, even when they were detected by the petitioner. He has further argued that as the present matter is an extra ordinary case, therefore, investigation in this case is required to be handed over to the Central Bureau of Investigation.

5. Mr. Rajat Chauhan, learned Law Officer, for respondent No.1 has argued that the matter is investigated by the Investigating Officer to his best ability and the petitioner has paid the amount, even after registration of FIR to the accused persons. On the other hand, Mr. Anshul Bansal, learned counsel for respondents No.2 & 3/Central Bureau of Investigation, has argued that the investigation can be conducted by the Central Bureau of Investigation, if ordered, by this Court and the Superintendent of Police, Central Bureau of Investigation, Railway Building, Shimla, who is having the jurisdiction to conduct the investigation, can conduct the investigation.

6. To appreciate the arguments of learned counsel appearing on behalf of the parties, I have gone through the entire record in detail.

7. At this moment, taking into consideration the facts, which have come on record that as the matter relates to the crime committed at the national and international level and further the accused are so intelligent that they are escaping from the clutches of the police and the Central Bureau of Investigation, is willing to investigate the matter. So, this Court finds that in the interest of justice will be met, in case, the matter is investigated by the Central Bureau of Investigation. So, it is ordered that the matter be investigated by the Central Bureau of Investigation, i.e. Superintendent of Police, Central Bureau of Investigation, Railway Building near Kalibari Temple, Shimla. The Investigating Officer directed to hand over all the records relating to the investigation conducted till date to the Superintendent of Police, Central Bureau of Investigation, Shimla, at the earliest.

Ordered accordingly.

8. The petition is accordingly disposed of alongwith pending applications, if any.