
(1991) 11 P&H CK 0054

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 9979-M of 1991

Jarnail Singh

APPELLANT

Vs

State of Haryana and anr.

RESPONDENT

Date of Decision : 27-11-1991

Acts Referred:

Citation : (1992) 1 RCR(Criminal) 234

Hon'ble Judges : G.S.Chahal, J

Advocate : K G. Choudhary, Azad Singh, A C. Jain, Advocates for appearing Parties

Judgement

G.S. Chahal, J.

1. Jarnail Singh by means of this petition, under Section 482 Cr.P.C. seeks quashing of the FIR No. 98 registered on February 8, 1985 at police station City Yamunanagar, for offences under Sections 420, 467, 468 and 471 IPC. The impugned FIR was registered on the basis of an application moved by Jagjit Singh of Yamunanagar.

2. According to the averments made, Jagjit Singh was working as a truck operator and he purchased a truck. with Chassis No. 7284, hypothecated to Bank of India, Saharanpur, for Rs. 1,20,000/-. He sold this truck to Jarnail Singh, petitioner, on April 7, 1980 for Rs. 1,55,000/ and received Rs. 40,000/ in cash and issued a receipt thereof. It had been agreed that Jarnail Singh will pay the balance amount of loan to the Bank and the registration documents will be transferred in his name after the entire amount is paid. Before this sale, the complainant had already paid an instalment of Rs. 5,000/-. After the sale, Jarnail Singh made payment of 11 instalments of Rs. 5,000/ each and one instalment of Rs. 10,000/ making a total of Rs. 65,000/ to the Bank. With effect from October 31, 1981, Jarnail Singh stopped paying the instalments. Jagjit Singh then reported the matter to police station Yamunanagar in September 1984 and Maheshwar Singh, Thanedar, visited the village Harnam Singhwala for inquiry and from there he took the truck into custody, but this truck was ultimately

obtained on superdari from the Court by Jarnail Singh after producing a forged receipt of payment. Jarnail Singh issued a notice to the complainant from where he learnt that Jarnail Singh had forged the receipt of Rs. 1, 15,000/. He had thus defrauded the complainant by forging the receipt.

3. The police after investigation put up a cancellation report Annexure P. 2.

4. Learned counsel for the petitioner states at the bar that the cancellation report has not been accepted by the Magistrate. Even after further investigation, the police has submitted a report dated September 17, 1988 and even that report has not yet been accepted.

5. A reference to the allegations made in the FIR will show that it was purely a civil dispute between Jagjit Singh and Jarnail Singh, petitioner. Jagjit Singh had sold the truck to Jarnail Singh after receipt of certain consideration which he claims to be only Rs. 40,000/- while according to the petitioner that amount was Rs. 1,15,000/-. Jarnail Singh had also paid Rs. 65,000/- to the Bank towards the instalments of the loan obtained by Jagjit Singh. If some amount is still due, that only creates a civil dispute. The police has thoroughly investigated the case and reached a conclusion that no criminal offence is made out if the complainant had any amount to recover from the petitioner, he has to seek his legal remedy in a civil Court. The fact as to how much amount was paid as earnest money has also to be established before the civil Court. It shall be open to the civil Court to examine the genuineness of the receipt vide which Jarnail Singh claims to have paid Rs. 1,15,000/- to the complainant. If thereafter the complainant has paid some amount to the Bank. and claims to lien on (the truck about that amount, that matter can also be gone into by the civil Court. The impugned F.R was registered as back as February 8, 1985 and the transaction regarding which the dispute has arisen is dated April 7, 1980. For such a stale matter, the Magistrate is not justified in asking even further investigation. The continuation of these proceedings will amount to abuse of process of Court. I hereby accept the petition and quash the impugned FIR. The truck shall, be handed over to the petitioner.