

(1986) 11 P&H CK 0040

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 1088-M of 1986

Manjit Singh

APPELLANT

Vs

Satish Kumar

RESPONDENT

Date of Decision : 25-11-1986

Acts Referred:

Citation : (1987) 1 RCR(Criminal) 178

Hon'ble Judges : Pritpal Singh, J

Advocate : H.S. Gill, Advocates for appearing Parties

Judgement

Pritpal Singh, J.

1. In this petition under Section 482, Code of Criminal Procedure, the criminal complaint (Annexure P1) filed by the respondent Satish Kumar against the petitioners Manjit Singh and Harbans Sing, as also the summoning order (Annexure P2) issued by the Judicial Magistrate I Class, Hissar, in pursuance thereof are sought to be quashed.

2. The respondent Satish Kumar filed the impugned criminal complaint alleging that on the request of the petitioners he advanced Rs 5000/ and a gold ring valuing Rs. 2,000/ to them on February 6, 1985 and they promised to return the amount of Rs. 7,000/ to him within a short period. It is said that the petitioners did not pay him the amount and after putting him off for a considerable time finally refused to do so. Upon this complaint, after recording preliminary evidence, the learned Judicial Magistrate I Class, Hissar, summoned the petitioners to face trial under Sections 406 and 420, Indian Penal Code.

3. It is contended on behalf of the petitioners that no criminal offence is made out from the contents of the impugned complaint and that even if the allegations in the complaint are accepted on their face value they reveal a civil transaction. This contention is not without merit. From the facts mentioned in the complaint an inference cannot be drawn that the intention of the petitioners was to deceive the respondent from the very beginning. Nor it can be said that the case amount

of Rs. 5,000/ and the gold ring were entrusted to the petitioners by the respondent. It seems to be a case of loan being advanced by the petitioners to the respondent which tantamounted to a transaction under the civil law. No commission of a criminal offence is disclosed and as such the impugned complaint regarding a civil dispute cannot be allowed to remain pending as an instrument of pressure.

For aforesaid reasons the impugned complaint (Annexure P1) and the summoning order of the Judicial Magistrate (Annexure P2) are quashed.

JUDGMENT accordingly.