

(2014) 07 P&H CK 0368
In the Punjab And Haryana At Chandigarh
Case No : CRM-M-39041-2012 (O&M)

Rajdeep Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 16-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 420

Citation : (2014) 07 P&H CK 0368

Hon'ble Judges : Naresh Kumar Sanghi, J

Bench : Single Bench

Advocate : Navdeep Monga, Advocate for the Appellant; K.D. Sachdeva, Addl. AG, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Naresh Kumar Sanghi, J.—Prayer in this petition, filed u/s 482, Cr.P.C., is for quashing the impugned FIR No. 84, dated 25.10.2012, for the offences punishable under Sections 120B and 420, IPC, registered at Police Station, Sadar, Moga.

2. At the very outset learned counsel for the petitioners prays for an adjournment on the premise that the cancellation report is likely to be presented by the investigating agency in the present case. Learned counsel for the State on instructions from ASI Amarjit Singh of Police Station, Sadar, Moga, on the contrary submits that there is no such proposal at this stage. Therefore, this might not be a ground for adjournment and, as such, the prayer for adjournment is declined.

3. Learned counsel for the petitioners then raised the following arguments:-

- i) The registration of the impugned FIR is sheer abuse of the process of law;
- ii) The impugned FIR is a counter-blast to the civil suit filed by petitioner No. 1, Rajdeep Kaur, against respondent No. 2, Jasvir Kaur, and one Deputy

Superintendent of Police of District Moga;

iii) The police of Police Station, Sadar, Moga, had no jurisdiction to register the impugned FIR since no offence was committed within the jurisdiction of Moga. In this regard, learned counsel has placed reliance on the ratio of the judgment of Delhi High Court in the case of Amit Sharma Vs. State and Others and

iv) No specific allegations are levelled against the petitioners in the impugned FIR.

4. On the other hand, learned counsel for the State submits that specific allegations have been levelled in the impugned FIR against the petitioners with regard to deceitful receipt of huge amount from the complainant/respondent No. 2.

He further contends that from the perusal of the FIR and other material available on the police file, brought today in the Court by ASI Amarjit Singh of Police Station, Sadar, Moga, clearly spell out that the petitioners did commit the offence punishable u/s 420, IPC, after hatching a conspiracy. He also contends that it is very much mentioned in the FIR that the payment of Rs. 35,000/- was made to petitioner No. 1 in the area of Village Dunike, District Moga, by the complainant/respondent No. 2, therefore, the argument raised by the learned counsel for the petitioners with regard to jurisdiction of the police of Police Station, Sadar, Moga, to register the case against the petitioners is palpably wrong. He further contends that disputed questions of facts cannot be raised before this Court in a petition filed u/s 482, Cr.P.C. He further contends that the judgment cited by the learned counsel for the petitioners is not applicable to the facts and circumstances of the present case, since the said case was arising out of a matrimonial dispute and all the offences were committed out of country.

5. I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

6. The arguments raised by the learned counsel for the petitioners are being discussed cumulatively because all the arguments depend upon each other. There are specific allegations in the impugned FIR that the petitioners made the complainant/respondent No. 2, Jasvir Kaur, to believe that they (petitioners) could arrange passport and visa for her to visit Canada and on that count charged hefty amounts on different occasions. The argument that the FIR is a counter-blast to the civil suit filed by petitioner No. 1 against the complainant/respondent No. 2, has yet to be substantiated. The civil suit is still pending. The veracity of the contents of the civil suit are yet to be decided.

7. The transaction had taken place within the jurisdiction of District Moga, therefore, the police of Police Station, Sadar, Moga, had the jurisdiction to register the impugned FIR. It has rightly been contended by the learned counsel for the State that disputed questions of facts cannot be decided by this Court while dealing with a petition u/s 482, Cr.P.C. This Court is also of the view that at

this stage a certificate cannot be given to the petitioners that whatever they have enumerated in the present petition is correct. The learned Trial Court has to decide the issues after taking evidence of both the sides.

8. As far as the judgment of Delhi High Court in the case of Amit Sharma (supra), cited by the learned counsel for the petitioners is concerned, the facts of the said case were entirely on different footings. The ratio of the said judgment is not at all applicable to the facts and circumstances of the case in hand. It has emerged on record that the amount was paid by the complainant/respondent No. 2 to the petitioners within the jurisdiction of District Moga. No ground for quashing of the impugned FIR is made out.

9. Dismissed.