
(1991) 01 P&H CK 0040

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 1231-M of 1990

R.C.Kaushal

APPELLANT

Vs

Black Jack India Pvt.Ltd.

RESPONDENT

Date of Decision : 07-01-1991

Acts Referred:

Citation : (1991) 3 RCR(Criminal) 22

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

Advocate : Sh. R.K. Handa, S.C. Sibal, P.S. Bhullar, Advocates for appearing Parties

Judgement

G. S. Chahal, J.

1. R. C. Kaushal, petitioner has preferred the present petition under section 482 of the Code of Criminal Procedure for quashing of complaint under Section 408 of the Indian Penal Code, filed by M/S Black Jack India Pvt. Ltd., Jalandhar, the respondent Company and pending in the Court of Shri M. M. Bhalla, Addl. Chief Judicial, Magistrate, Jalandhar.

2. The petitioner pleaded that the complaint had been filed against him on the allegations that he had been procuring material on behalf of respondent Company while being its employee, as Manager of its Aligarh branch. In the capacity of an employee of the respondent Company, he had been entrusted. with various amounts from time to time. He had disappeared from Aligarh branch about 11 Months prior to the filing of the complaint. On the day of disappearance the petitioner had in his hand and control stocks worth Rs. 3,03,192/, cash amount of Rs. 1,38,976.44 and patterns of Rs. 1,05,240/. These articles were in trust with him and he had committed criminal breach of trust with respect thereto. This fact had been discovered when Shri V. D. Chadha was deputed by the respondent Company to go to Aligarh. These amounts had been entrusted to the petitioner from Jalandhar and as per terms of employment, he was to account for the same to the respondent Company Jalandhar.

3. The petitioner has challenged the summoning order on the basis that he was not an employee of the petitioner company, but was an employee of Rajat International. The complaint had not been filed by a duly authorised person and the Courts at Jalandhar had no jurisdiction.

Even if the allegations in the complaint are accepted, the same only make out a civil liability and no ingredients of the offence under sec. 408 of the IPC are made out. In fact, the petitioner had been working with Rajat International and had received letters from the respondentCompany, at that address

4. After going through the record and hearing learned counsel for the respondentCompany I am of the view that no case for interference is made out in this criminal misc. In the complaint, facts have been pleaded about due employment of the petitioner, as manager for the respondentCompany to work at Aligarh and his having been entrusted with cash and patterns, as also with respect to the stock. Evidence has also been led to prove these facts. The learned Additional Chief Judicial Magistrate had considered the evidence to reach a prima facie conclusion that the petitioner was entrusted with stock and cash on behalf of the respondentCompany and he had to render accounts with respect thereto at Jalandhar. Considering the allegations made in the complaint, along with the evidence that has been appreciated by the learned Addl. Chief Judicial Magistrate, offence under Sec. 408, IPC had been made out. The matters of employment and entrustment or due accounting thereof, are questions of evidence which has to be gone into by the trial Court.

5. The learned counsel for the petitioner has urged that the Courts at Jalandhar had no jurisdiction. I am, however, of the view that this contention has no force. Section 181(4) of the Code of Criminal Procedure provides as under :

"Section 81(4), An offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence, was committed or any part of the property which is subject to the offence was received or retained or was required to be returned or accounted for, by the accused person."

This provision was considered in *Harjeet Singh Ahluwalia v. State of Punjab* and another, 1986(2) Recent Criminal Reports 441 and *Surinder Singh, J.* made the following observations :

"What then is the true import of the words was required to be returned or accounted for in the relevant provision ? To my mind, the requisite requirement is to be determined on the basis of the stipulation, if any, between the parties, i.e. the complainant and the accused as to where the goods are to be returned or to be accounted for. In the absence of any such stipulation, it would be the place where the goods in question were kept in trust and a breach in respect thereof was committed."

The observations of the learned Judge do not help the petitioner. The trial Court

shall obviously consider the matter in detail, if there was a stipulation, as claimed by the complainant about the returning of the goods and rendering of the accounts at Jalandhar.

6. The learned counsel for the petitioner has then urged that it was only a case of civil liability and he has referred to the observations of M. M Punchhi. J. (as his Lordship then was) in *Chitranjan Mohan Vashisht v. Nirmal Singh*, 1986(2) Recent Criminal Reports 556 : 1986(2) CLR 418. That was a cause on its own facts and does not help the petitioner.

7. Keeping the foregoing discussion in view, there is no merit in this petition which is hereby dismissed.