
(1986) 12 P&H CK 0011

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 975-M of 1986

Sunil Oberoi

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 02-12-1986

Acts Referred:

Citation : (1987) 1 RCR(Criminal) 175

Hon'ble Judges : Pritpal Singh, J

Advocate : S.N. Sharma, Jatinder Singh, Harbans Singh, C.D. Dewan, Advocates for appearing Parties

Judgement

Pritpal Singh, J.

1. In this petition under Section 482, Code of Criminal Procedure. First Information Report No. 30 dated January 25, 1986, under Sections 406 and 420, Indian Penal Code, registered at Police Station, Narnaul, against the petitioner Sunil Oberoi and Satish Oberio is sought to be quashed.

2. In the impugned First Information Report it is alleged by the complainant Ram Kumar that he was acquainted with the petitioner, who are running an Oil Mill at Agra, since three or four years. The petitioners came to Narnaul Mandi on December 16, 1985 when the complainant also happened to be there. The petitioners told the complainant that they wanted to sell their car which they had brought with them. The complainant agreed to purchase the same for Rs. 45,000/. Out of the agreed sale price the complainant paid Rs. 30,000/ there and then and it was agreed that the remaining amount of Rs. 15,000/ will be paid at Agra within one month. The complainant went to Agra on January 15, 1986 to pay the remaining sale price and to get possession of the car. However, the petitioners not only refused to honour the commitment but also destroyed the receipt for Rs. 30,000/ which the complainant had obtained from them at Narnaul when this amount was paid by him to the petitioners on December 16, 1985. It is a legged that the petitioners had fraudulently induced the complainant to pay them Rs. 30,000/ at Narnaul without intending to sell the car to the

complainant.

3. It is contended on behalf of the petitioners that on the allegations contained in the First Information Report no offence is disclosed and that the dispute between the parties is purely civil in nature.

4. To establish a charge under Section 420, Indian Penal Code, it must be alleged and proved that the accused has cheated the complainant and by doing so had dishonestly induced the complainant to deliver any property.

5. Guilty intention is therefore, an essential ingredient of cheating. It is necessary that in order to constitute the offence of cheating the intention to deceive should exist at the time when the inducement is offered. Intention to cheat at the time when the inducement is offered can only be gathered from the facts and circumstances of each case. Rarely there may exist positive evidence of the dishonest intention at that stage and it can be inferred from the surrounding circumstances and subsequent conduct of the accused. At the present juncture we are only concerned with the allegations made in the First Information Report and we have not to examine the correctness or otherwise of the same. Whether the petitioners intentionally deceived the complainant while receiving the money from him and thereby cheated him or whether they actually intended to sell the car to the complainant and afterwards broke the contract thereby incurring civil liability will be gone into at the appropriate stage of the trial on appreciation of evidence. It is, however, not possible at this stage to hold that no offence is disclosed from the allegations made by the complainant and that it is necessarily a civil dispute.

6. For these reasons, I find no justification to quash the First Information Report and, therefore, dismiss this petition.