
(1988) 09 P&H CK 0073

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 8159-M of 1987

Vijay Kumar and ors.

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 28-09-1988

Acts Referred:

Citation : (1989) 1 AICLR 249 : (1989) 1 RCR(Criminal) 416

Hon'ble Judges : Naresh Chander Jain, J

Advocate : J. S. Duhan, K.S. Dhillon, Advocates for appearing Parties

Judgement

Naresh Chander Jain, J.

1. This petition has been filed under section 482 of the Code of Criminal Procedure for quashing of the criminal complaint filed by Prahlad Rai son of Inder Dev resident of village Milkhpur. The complaint was lodged with the police and the contents of the First Information Report are reproduced in paragraph No. 1 of the present petition which is reproduced here :

"It is stated that I have a number of brick kilns in village Milkhpur. I usually purchase coal for these brick kilns from the coal depot at U.P. Border, About 7 months back, I accompanied by Chabil Dass, Munshi of the brick kiln, Captain Dharam Singh, Manager of the brick kiln and Rao Sita Ram, Ex Sarpanch of Milkhpur was present at the brick kiln. Around 11. 00 a. m. Prahlad Rai Lohia son of Lachhu Ram and Vinod Kumar, son of Prahlad Rai, Caste Mahajan, of village Barwala and Jaswant Rai, son of Ram Narain near Kalpana Restaurant, Hissar came there. They are in the business of supply of coal at the U. P. Border. They had settled with me about the supply of coal and had promised to supply 159 MT of coal at the rate of Rs. 1000/per MT. I paid them a sum of Rs. 1.5 lacs in the presence of the people sitting with me. They left after receiving the money promising me to supply 6 or 7 trucks of coal at the brick kiln within a period of 3/4 days. The coal was not supplied as per the promise. After waiting for a number of days I contacted these people. Initially they tried to put off the matter. Then I met them along with Shri Parmod Mittal, Chartered Accountant.

Hissar, Kulwant Rai Advocate, Hissar, Om Parkash Goel and 3/4 more people. On the pressure of these people they stated that they were not in a position to supply the coal or repay the money and promised that in lieu thereof, the truck No. UHN 443 shall be left at the brick kiln at Milkhpur within two days and further within 10 days thereafter they will supply the coal or they will return the money and thereafter they will take the truck back.

About 3 months back Vinod Kumar and Jaswant Rai came to my brick kiln along with the truck and in the presence of a number of persons left the truck there. Thereafter, the truck remained parked at my brick kiln for about one and half month. When I demanded the papers of the truck from Vinod Kumar and Jaswant Rai and wanted them to transfer the same in my name. I was told by Vinod Kumar that the truck was in the name of Vijay Kumar and that I shall get the same transferred in due course of time. Even then the said persons, with dishonest intention, in order to repay my money, are dillydallying the matter.

I reported the matter on 22/9/1987 to police station Bawani Khera. These persons also got a false case registered against me with police station Shabibabad (U.P.) in order to keep my money. On 4/11/1987 Jaswant Rai, Prahalad Rai, Vinod Kumar and Vijay Kumar, son of Prahalad Rai came to my brick kiln at 1000 p. m. and told the Chowkidar Mr. Mamam Chand and other persons present there that the money had been paid to your Babu Ji and that they were taking the truck with them. I had gone out. When I came on November 10, 1987 and went to the brick kiln at Milkhpur, I came to know of the said incident. I contacted these persons at my own level asking them to return the truck. Further told them that either the truck should be returned or I shall get a case registered in the police station against them. To escape police case they parked the truck in the Village Vedwala which is now in the possession of C. I. A. Sirsa. Jaswant Rai, Prahalad Rai, Vijay Kumar and Vinod Kumar have cheated me and have dishonestly taken the truck entrusted to me. Legal proceedings may kindly be initiated against them."

2. A bare perusal of the allegations mentioned above would make it clear that there is, hardly any allegation of entrustment and cheating made in the complaint warranting the registration of the First Information Report. In other words, the various ingredients of section 406/420 of the Indian Penal Code have not been alleged in the complaint. Moreover, once the coal was not supplied and in lieu thereof the complainant accepted the offer of the petitioner for having truck No. UHN443, there ends the matter as regards offence under section 406/420 of the Indian Penal Code, is concerned. It appears that the state machinery is being used by the complainant in order to coerce and pressurize the petitioner. The very words in the end of the complaint which are quoted below would show that the petitioners were told that either the truck be returned or the complainant shall get the case registered in the police station against them. The following words will support the observations made by me :

"I further told them that either the truck should be returned or I shall get the case registered in the police station against them."

3. The learned counsel for the petitioner has cited before me three rulings. i. e. Shankar Lal and anr. v. Sunder Lal, 1984(1) Recent Criminal Reports 548 (1984(1) C.L.R. 423) , Ghulam MohiudDin Khan & anr. v. Ghulam Hassan Banday & Ors., 1985(2) C.I.R. 240 and Trilok Singh and others v. Satya Deo Tripathi, AIR 1979 Supreme Court, 850 and has contended that in such like cases the complainant should not be allowed to resort to criminal proceedings. In any case the contention of the petitioner is that the state machinery should not have been allowed to be used for settling the dispute between the complainant and the petitioners. There is force in the contention advanced at the bar. If the complainant has got any grievance and he can satisfy the criminal court that any case of cheating has been made out, he may do so by filing, a complaint. This is what has been argued by the counsel for the petitioner. In view of this stand of the counsel the complaint is ordered to be quashed and in this situation the complainant can if so advised, take any action either civil or criminal. In view of what has been observed above, the petition is allowed and the complaint is quashed.

Revision allowed.