

(2009) 12 P&H CK 0149

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 40532 of 2007 (O and M)

B.C. Jain and another

APPELLANT

Vs

State of U.T. Chandigarh and
another

RESPONDENT

Date of Decision: Dec. 9, 2009

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 420

Citation: (2010) 1 RCR(Criminal) 662

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Advocate: Ashu Kaushik with Mr. Ranjan Lakhanpal, for the Appellant; G.S. Chahal, Advocate, For the Complainant-respondent No. 2 Mr. Sunil Kumar, for the Respondent

Final Decision: Allowed

Judgement

Ranjit Singh, J.

This petition was for quashing the FIR registered against the petitioners under Sections 420 and 120-B IPC. Petition was filed pleading that the parties have reached a compromise and hence the same be quashed on that basis. The respondents, however, appeared and did not wish to file any reply. The petition was accordingly admitted.

2. Criminal Misc. No. 10063 of 2008 has been filed that the petition be taken up for hearing as the case has been compromised between the parties. Notice of this application was issued. Respondent No. 2 thereafter filed a reply to the main petition in the form of short affidavit. However, none appeared on behalf of U.T. Chandigarh-respondent No. 1 on some of the dates. Accordingly, this court directed Senior Superintendent of Police, U.T. Chandigarh to appear and explain the position as to why the U.T. Chandigarh had gone unrepresented and also non-presence of the Investigating Officers, which hampers the disposal of the cases. Senior

Superintendent of Police, U.T. Chandigarh was accordingly directed to be present in the court today at 10.00 A.M.

3. Mr. G.S. Chahal, appearing for U.T. Chandigarh informs the court that Senior Superintendent of Police did come present at 10.00 A.M. and appeared before Augustine George Masih, J. The case file, however, had not been received by the court, but was sent to this court as the main petition is shown on the board of this court.

4. When the case is taken up at 3.00 P.M., Senior Superintendent of Police is not present. The counsel, however, says that S.S.P. can appear before the court immediately if so required as he had left, thinking that case may not be taken up. Senior Superintendent of Police, U.T. Chandigarh has appeared in the morning when the case could not be taken up. It cannot be said that there is non-compliance of the directions of this court. Since the prayer is for quashing the FIR on the basis of compromise, there would hardly be any need to summon the Senior Superintendent of Police, U.T. Chandigarh. However, he would himself look into this aspect and ensure that the Investigating Officers are present when the cases are taken up where U.T. Chandigarh is a party. He would also ensure the presence of counsel, who are to appear on behalf of U.T. Chandigarh by submitting the information to the counsel concerned well in advance.

5. A perusal of the case file would show that the dispute arose between the parties on the basis of one agreement to sell. The complainant had advanced a sum of Rs. 60.00 lacs for sale of a plot. Subsequently, the dispute arose and sale could not be effected. The complainant accordingly lodged this complaint of cheating. Thereafter, the matter has been compromised, though in the compromise it is recorded that petitioners have agreed to return this amount to the complainant. The advance of Rs. 60.00 lacs, which was taken by the petitioners, has since been returned. The complainant is present in the court and he confirms that the amount extended as advance has been returned to him.

6. Since the matter has now been resolved through this compromise, no useful purpose would be served in allowing this prosecution to continue. It will only lead to wasting the time of the court. Otherwise also, the FIR now can be ordered to be quashed on the basis of compromise in view of the law laid down in Kulwinder Singh and others v. State of Punjab and others, 2007(3) RCR (Cri.) 1052 : 2007 (3) LH (P&H) (FB) 2225.

7. The present petition is accordingly allowed. The FIR No. 68 dated 13.3.2006 registered under Sections 420 and 120-B IPC at Police Station, Sector 36, Chandigarh and all subsequent proceedings arising there from are hereby quashed.