



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 8048/2023

Vinay Suri S/o Shri Sant Kumar Suri, Aged About 44 Years, R/o Rampuri Mohalla, Ward No. 2, Nurpur, Dist. Kangra (Himachal Pradesh) And Proprietor Of S.k. Gold Smith, Main Bazar, Nurpur, Dist. Kangra (H.P.)

----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. Sanjay Gera S/o Shri Govind Ram Gera, R/o House No. 115, G Block, Near Astang Yoga, India Terrain Store, Sukhadiya Circle, Dist. Sriganganagar (Raj.)

----Respondents

Connected With

S.B. Criminal Misc(Pet.) No. 6037/2023

1. Veena Rani Midha W/o Late Shri Manoj Kumar, Aged About 41 Years, R/o- House No. 28, Bhardwaj Colony, Near Agarwal Peer Mandir, District Sriganganagar (Raj.).
2. Rajan Monga S/o Shri Neeraj Monga, Aged About 32 Years, R/o- Ashok Nagar-B, Sriganganagar (Raj.).

----Petitioners

Versus

1. State Of Rajasthan, Through PP
2. Sanjay Gera S/o Shri Govind Ram Gera, R/o- House No. 115, G Block, Near Astang Yoga, India Terrain Store, Sukhadiya Circle, District Sriganganagar (Raj.).

----Respondents

For Petitioner(s) : Mr. Rahul Balana
Ms. Tania Chugh

For Respondent(s) : Mr. H.S. Jodha, PP
Mr. Kuldeep Sharma

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

11/09/2024

1. Quashing of a common FIR No.379/2023, dated 28.07.2023, registered at P.S. Jawahar Nagar, Sriganganagar for the offences



under Sections 420, 467, 468, 471 and 120-B of IPC is sought in the above titled two cases.

2. Petitioners and complainant in Petition No.6037/2023 are family member viz petitioners are stated to brother-in-law and sister-in-law, respectively of the complainant/respondent no.2.

3. Vinay Suri, petitioner in Petition No.8048/2023 is the person who presented the cheque in the bank, allegedly issued by the complainant/respondent No.2.

4. The complainant filed a complaint before the learned before the learned Additional Chief Judicial Magistrate, No1., Sriganganagar under Section 156 Cr.P.C., pursuant to which the FIR in question was registered against the petitioners.

5. Before adverting to the merits of the case, it is apposite to have a look at the FIR, the translated version of which is as follows:-

"1. The complainant is a resident of 115 G Block, near Sukhadia Circle, Sri Ganganagar. The accused, Rajan Monga, is the complainant's brother-in-law, and Veena Monga is his sister-in-law.

2. The complainant needed money, so he contacted his brother-in-law, Rajan Monga, who mentioned that he knew someone who lends money on interest. Rajan introduced the complainant to Rishpal Singh, a resident of Ashok Nagar, Sri Ganganagar. Rishpal Singh lent ₹200,000 to the complainant at an interest rate of ₹2 per hundred. Rishpal Singh provided a blank signed stamp paper worth ₹500 and two cheques (numbers 719181 and 719182), which were handed over to a well-known stamp vendor at Meera Chowk, Sri Ganganagar.

3. The complainant continued paying interest to Rishpal Singh and, after selling his land, repaid the principal amount to Rishpal Singh, with only ₹35,000 of interest remaining outstanding.

4. On 4th July 2022, the complainant received a message on his mobile phone that cheque number 719181, amounting to ₹392,678, had been presented by M/s SK Suri Goldsmith. Upon



checking, the complainant realized that this was the same cheque he had given to Rishpal Singh. When he called Rishpal Singh to inquire, Rishpal Singh stated that the complainant's brother-in-law Rajan, along with his wife, had come to pay the remaining ₹35,000 and had taken the two cheques and the security stamp paper. When the complainant denied sending his wife for any such payment, Rishpal Singh responded that Rajan had taken both cheques and the stamp paper along with the woman who had accompanied him.

5. The complainant then contacted Rajan Monga, who admitted that he and his sister, Veena Middha, had paid ₹35,000/- to Rishpal and had taken both blank signed cheques. Rajan further admitted that they had handed over the cheques to their acquaintance, Vinay Suri, a resident of Noorpur, and that he and Vinay had conspired to commit fraud. Rajan stated that they had filled in a fake amount on the cheque and challenged the complainant to do whatever he could.

6. On 24th August 2022, M/s. SK Suri Goldsmith, through his lawyer, sent a legal notice to the complainant under Section 138 of the Negotiable Instruments Act, based on false information. The complainant, through his lawyer, responded to this notice, sending a reply both to SK Suri's lawyer and to Vinay Suri.

7. The accused, by conspiring to commit fraud, forged cheque number 719181, which was a blank signed security cheque, and by doing so, they have defrauded the complainant and committed a criminal offense.”

6. In the aforesaid backdrop, I have heard learned counsel for the petitioners and learned Public Prosecutor and perused the case file.

7. The conceded case of the complainant herein is that he had indeed issued bearer cheques in question, but claims that the same were not issued to the petitioners but to one Richhpal Singh.

8. Be that as it may, bearer cheques are negotiable instruments and the person who is in physical possession thereof, is deemed to be the beneficiary owner of the same, unless proved otherwise in accordance with law. On count of being in possession of the bearer cheques no criminal culpability under any of the sections of 420, 467, 468, 471 and 120-B of IPC is made out. Cheques have



indeed been issued by the complainant, which, as stated, is conceded position. Allegation merely is that the same were given to Richpal Singh.

7. Whether or not complainant owed any legitimate debt qua the cheques in question, will be adjudicated in the proceedings already subjudice under Section 138 of N.I. Act. I am of the view that upon the complainant initially approaching the police officials, correct view was taken by them to not register the FIR. Not to be undone, the complainant approached the learned Additional Chief Judicial Magistrate under Section 156 Cr.P.C. filed and a complaint and managed to mislead the Court to issue directions to get the FIR registered against the petitioners.

8. In any case, the contents of the allegations in the FIR ex-facie do not make out any case of commission of offences as alleged therein. None of the essential ingredients of any of the sections of the IPC invoked in the FIR are made out. FIR does not, therefore, stand to the judicial scrutiny and same is unsustainable.

9. In the premise, both the petitions are allowed. The FIR No.379/2023, dated 28.07.2023, registered at P.S. Jawahar Nagar, Sriganganagar and all the consequential proceedings emanating therefrom are hereby quashed.

(ARUN MONGA),J

40-41-skm/-

Whether fit for reporting : Yes / No