

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.

Criminal Revision No.110 of 2010  
Decided on 30.01.2013.

Dina Nath ..... Petitioner.

Versus

Bahadur Chand and another .... Respondents.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**CORAM:- HON'BLE MR. JUSTICE K.C. PURI**

Present :- Mr. Ashish Gupta, Advocate for the petitioner.  
Mr. SPS Sidhu, Advocate for respondent No.1.  
Mr. Rajesh Mehta, Addl. AG, Punjab.

**K.C.PURI, J.**

Petitioner-Dina Nath has preferred the present revision petition against the order dated 10.8.2009 passed by Shri Inderjit Singh, Additional Sessions Judge, Faridkot vide which the revision petition preferred by Dina Nath-accused- against the order dated 11.8.2005 passed by Shri Vijay Kumar, the then Judicial Magistrate Ist Class, Faridkot, was dismissed.

2 The brief facts of the present case are that the petitioner-

complainant has lodged FIR No.29 dated 18.3.2003 under Sections 420, 467, 468, 477-A and 500 of the Indian Penal Code ( in short – the IPC) at Police Station Jaitu against accused Manohar Lal and Bahadur Chand for cheating him after fabricated the entries in the account books of the partnership firm constituted between the complainant and the accused, and also for having defamed the complainant. It has been alleged by the complainant that on 31.3.2001 after settlement of the accounts when he demanded Rs.2,00,000/- from out of his share for the construction of his house, then accused Manohar Lal and Bahadur Chand told him that the firm has to pay an outstanding amount of about Rs.1crore to the people and the firm has no cash balance with it. The petitioner-complainant thereafter checked the account books from the accountant and found that the firm was liable to pay very less outstanding amount. The complainant-petitioner further alleged that both accused Manohar Lal and Bahadur Chand with intention to commit fraud with him had issued writings on the letter pad of the firm to their close persons showing that the firm had borrowed huge amounts from those persons. On enquiry, no entry regarding those writings in the ledger was found and the said amount was shown illegally. Complainant alleged that the accused persons have prepared fake and forged writings with intention to cause loss to him and they grabbed about Rs.25lacs by forging the entries in the account books.

3. The trial Court framed charges against the accused persons on 11.8.2005.

4. Feeling dissatisfied with the order dated 11.8.2005 passed by learned Judicial Magistrate Ist Class, Faridkot, Bahadur Chand accused

preferred revision petition before learned Sessions Judge Faridkot.

5. The learned Sessions Judge, Faridkot held that no offence is made out against the accused and set aside the order of framing charges vide order dated 10.8.2009 and discharged accused-Bahadur Chand.

6. Feeling dissatisfied with the aforesaid order dated 10.8.2009, the present revision petition has been filed by the complainant.

7. Learned counsel for the petitioner has submitted that the trial Court after giving elaborate reasoning framed charge under Sections 420, 467, 468, 477-A and 500 of the IPC vide order dated 11.8.2005. The said order was challenged by the present petitioner and the learned Sessions Judge, has wrongly accepted the revision against the framing of charge. The petitioner was a passive partner whereas Bahadur Chand respondent and Manohar Lal were the acting partners. Both Bahadur Chand and Manohar Lal have raised loan without showing the same in the books of accounts and in this manner have deprived the petitioner of the huge amount. So, the learned Sessions Judge has committed an illegality while discharging the accused on the ground that civil dispute is there. Both civil and criminal disputes can exist together. To support this contention, learned counsel for the petitioner has relied upon authority **Anil Saran vs. State of Bihar reported in 1996 (1) R.C.R. (Criminal ) page 43.**

7. In reply to the above noted submissions, learned counsel for the respondent has submitted that in this FIR the respondent has challenged the order of framing of charge in the revision whereas other co-accused Manohar Lal has not challenged the charge. Said Manohar Lal was tried by

the trial Court and vide judgment dated 25.3.2011 he has been acquitted by observing that petitioner has failed to prove the factum of embezzlement. It is further contended that the allegations against the petitioner is that of making false entries and not forged entries. This Court in authority **M/s Kaushmbari Mal Devi Dass Cloth Merchants and ors vs. Amarjit Pal Singh Puri reported in 1984 (2) R.C.R. (Criminal ) page 184** and **Sh.Avbnash Chander vs. State of Punjab reported in 1983 (2)( R.C.R. (Criminal) page 528** quashed the FIR under Sections 482 of the Cr.P.C. Where there are allegations of making false entry in the record and there was no allegation of forged entries.

8. I have considered the submissions made by both the besides and have gone through the records of the case.

9. It is not disputed during the course of arguments that other co-accused Manohar Lal has been acquitted vide judgment dated 25.3.2011 passed by Shri J.S.Kang, Chief Judicial Magistrate, Faridkot and the allegation against said Manohar Lal were the same as that of the petitioner. Otherwise also, this Court in authority **Anil Saran's case (supra)** quash the proceedings under Section 482 of the Cr.P.C. where there were allegations against the partner regarding making the false entries and not forged entries. From the bare perusal of whole of the case, there is no allegation of making forged entries. So, in these circumstances, the learned Sessions Judge has rightly accepted the revision petition. Otherwise also, under the change circumstances vide which the co-accused Manohar Lal has been acquitted vide judgment dated 25.3.2011 the petitioner is left with no cause of action.

10. So far as authority Anil Saran's case (supra) is concerned in that case the misappropriation by the partner to the exclusion of other was proved and under those circumstances, Hon'ble the apex Court has held that civil and criminal proceedings can continue together.

11. So, in view of the above discussion, the revision petition is without any merit and the same stands dismissed.

12. A copy of this judgment be sent to the trial Court for strict compliance.

**January 30, 2013**  
SV

**(K. C. PURI)**  
**JUDGE**