

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

Reserved on : 14.03.2023  
Pronounced on: 31.03.2023

CRM(M) No. 136/2020

Raj Kumar

.....Appellant(s)/Petitioner(s)

Through: Mr. Ajaz Choudhary, Advocate.

vs

Senior Superintendent of Police and  
another

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG for R-1  
Mr. Sandeep Singh, Advocate for R-2  
Mr. Rahul Singh, Advocate

**Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

**JUDGEMENT**

1. The petitioner has sought the quashing of complaint titled "*Tara Singh vs. Raj Kumar*" pending before the court of learned Chief Judicial Magistrate, Jammu (hereinafter to be referred as 'the trial court'), order dated 01.07.2017 passed by the trial court directing enquiry by the respondent No.1 and subsequent enquiry conducted by the respondent No. 1 pursuant to the order dated 01.07.2017.
2. The quashing of the complaint is sought on the ground that no offence is made out from the mere perusal of the complaint and that the petitioner had in fact borrowed sum of Rs. 1.5 Lakhs from respondent No. 2 in the year 2010 and the loan transaction has been portrayed as the money received by the petitioner for the purpose of procuring the allotment of the land in favour of respondent No. 2.

3. The order dated 01.07.2017 has been impugned by the petitioner on the ground that once the report was filed by the enquiry officer pursuant to the order passed by the learned trial court under Section 202 Cr.P.C, the learned trial court could have proceeded in accordance with either Section 203 Cr.P.C or Section 204 Cr.P.C and in no manner could have directed respondent No. 1 to conduct in-depth enquiry under Section 202 Cr.P.C. It is further stated that as the order dated 01.07.2017 is without jurisdiction, so any enquiry conducted pursuant to the order dated 01.07.2017 is also void *ab-initio*.
4. Mr. Ajaz Choudhary, learned counsel for the petitioner during the course of his submissions, restricted his arguments only to the extent that once the enquiry report was submitted by In-charge, Police Post, Greater Kailash, Jammu pursuant to the order dated 21.02.2017 and the report was submitted by the enquiry officer, the learned trial court could not have directed the further enquiry to be conducted by respondent No. 1.
5. Mr. Sandeep Singh, learned counsel for respondent No. 2 submitted that no order of further enquiry was issued by the learned trial court, but order dated 01.07.2017 was in continuation to order dated 21.02.2017, whereby the In-charge, Police Post, Greater Kailash, Jammu was directed to conduct enquiry in terms of Section 202 Cr.P.C.
6. Heard and perused the record.
7. A perusal of the complaint filed by respondent No. 2 under Section 420 RPC reveals that the petitioner had allegedly taken an amount of Rs. 10 Lakhs from respondent No. 2 over a period of four months in the year 2010 on the assurance that he would get the land situated at Chakori

Farm, R. S. Pura, allotted in favour of the petitioner. As the petitioner failed to get the land allotted in the name of the respondent No. 2, he repaid Rs. 1 lac in the year 2011 and another Rs. 1 lac in the month of August 2016 through one Sobha Singh. It was also stated in the complaint that the petitioner had cheated another person namely Sukhinder Singh in an identical manner and further that the petitioner has also deceived Pal Singh and Narinder Kour for an amount of Rs. 2 lac each on the pretext of getting their sons recruited as Class IV employees in the Fisheries Department.

8. When the said complaint was filed before the learned trial court, the learned trial court vide order dated 21.02.2017, in order to determine the authenticity of the allegations, appointed In-charge, Police Post, Greater Kailash, Jammu as enquiry officer in terms of Section 202 Cr.P.C with a direction to enquire into the matter and submit his report.
9. Record of the trial court divulges that pursuant to order dated 21.02.2017 the enquiry report was submitted by the In-charge, Police Post, Greater Kailash, Jammu and after noting that the concerned enquiry officer has not conducted the enquiry properly, perhaps because of the reason that he lacked the territorial jurisdiction over the area where the alleged occurrence took place and after taking note of the fact that the petitioner had duped number of other persons as alleged in the complaint, directed the Senior Superintendent of Police, Crime Branch, Jammu to conduct a detailed enquiry in continuation to the enquiry ordered earlier vide order dated 21.02.2017.

- 10.** The learned trial court while passing order dated 01.07.2017 took note of the fact that the enquiry officer appointed vide order dated 21.02.2017 has simply recorded the statements of witnesses and the complainant i.e. respondent No. 2 herein, but had not enquired about the allegations levelled in the complaint with regard to duping of Sukhinder Singh, Pal Singh and Narinder Kour. The learned trial court had appointed the enquiry officer to determine the truthfulness of the allegations levelled in the complaint, but the enquiry officer had not conducted any enquiry about the authenticity of the allegations vis-a-vis duping of persons named in the complaint.
- 11.** The contention of the petitioner is that order dated 01.07.2017 could not have been passed by the learned trial court for directing respondent No. 1 to conduct enquiry in continuation to the earlier enquiry as the In-charge, Police Post, Greater Kailash, Jammu had already conducted the enquiry. In nut-shell, the stand of the petitioner is that the trial court could not have directed the second enquiry after conclusion of the first enquiry. This contention of the petitioner though appears to be attractive, but deserves to be rejected, as perusal of the order dated 01.07.2017 reveals that the enquiry officer appointed in terms of order dated 21.02.2017 had not conducted the enquiry on the vital aspects of the complaint regarding the allegations levelled against the petitioner with respect to duping of Sukhinder Singh, Pal Singh and Narinder Kour because of the reason that the enquiry officer felt that he lacked the territorial jurisdiction over the area where the alleged offence was committed and, as such, he did not conduct the enquiry with regard to those allegations.

12. The purpose of enquiry in terms of Section 202 Cr.P.C is to determine as to whether the allegations levelled in the complaint are true so as to issue process against the accused. Learned counsel for the petitioner is right to the extent that after the report is submitted by the enquiry officer in terms of Section 202 Cr.P.C, then the trial court can either dismiss the complaint under Section 203 Cr.P.C or proceed ahead by issuing process against the accused under Section 204 Cr.P.C. So far as the present case is concerned, this Court is of the considered view that the learned trial court while directing respondent No. 1 to conduct an in-depth enquiry after the report was submitted by the earlier enquiry officer, has not committed any illegality, as the earlier enquiry officer had not conducted the enquiry with regard to certain allegations levelled in the complaint. The learned trial court was well within its power to get the authenticity of the allegations levelled in the complaint verified from the other enquiry officer.

13. In view of the above, this Court is of the considered view that neither the complaint nor the order dated 01.07.2017 is required to be quashed. Viewed thus, there is no merit in the present petition. The same is accordingly **dismissed**.

(RAJNESH OSWAL)  
JUDGE

Jammu  
31.03.2023  
Sahil Padha

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No