

25

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 3047/2010 & Crl.M.As. No.15541-02/2010

INDER PAL SINGH Petitioner
Through : Mr. Sachin Mishra, Adv.

versus

PUSH PAL KAUR & ANR Respondents
Through : None.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER
24.09.2010

%

The present petition is filed by the petitioner under Section 482 Cr.P.C. praying *inter alia* for quashing of a Complaint No.5959/01/2010 lodged against him by the respondents No.1 & 2, his sister-in-law and father-in-law, under Sections 384/500/509 IPC, registered with PS Hari Nagar, New Delhi, and for setting aside the order dated 20.8.2010 passed by the learned Metropolitan Magistrate, summoning the petitioner on 25.9.2010.

Counsel for the petitioner states that the complaint filed by the respondents under Section 200 of the Cr.P.C. is a counter blast to the complaint filed by his client against them a few days earlier. The main grievance of the petitioner is that the documents annexed by the respondents/complainants with their complaint, do not show any act of defamation on the part of the petitioner, and therefore, the complaint

CRL.M.C. 3047/2010

Page 1 of 4

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

2

lodged by them is liable to be quashed straight away.

A perusal of the record shows that apart from the documents enclosed with the complaint, and referred to by the counsel for the petitioner, the complainants/respondents examined 5 witnesses, at the pre-summoning stage, including themselves. After perusing the testimony of the aforesaid 5 witnesses, the learned Metropolitan Magistrate held that while no grounds were made out for summoning the petitioner for the offence of extortion, punishable under Section 384 IPC, sufficient grounds were found in the prosecution evidence to proceed against the petitioner and issued summons to him for the offences under Section 500/509 IPC.

The impugned order takes note of the testimony of 5 witnesses, including that of the complainants. All the aforesaid witnesses have deposed that the petitioner had passed vulgar remarks against the respondents/complainants and used defamatory language against them in their hearing on various occasions, including during a religious ceremony.

The submission of the counsel for the petitioner that no documents have been filed by the complainants/respondents along with the complaint to enable the trial court to arrive at a conclusion that it was a fit case for summoning the petitioner, is answered by the

definition of the term 'Defamation' under Section 499 of the IPC, which specifies that a person can be defamed not only by written words, but by such words spoken or by such signs or by visible representations, imputing harm to the reputation of such a person. Similarly, the language of Section 509 IPC indicates that no written material is required to establish that a person intends to insult the modesty of a woman. Rather, any word uttered, sound or gesture made or any object exhibiting with the intention that such words or sound be heard, or such gesture or object be seen, by such a woman, as to intrude upon her privacy, is liable to be treated as an offence under Section 509 IPC.

In the present case, the testimony of the prosecution witnesses, as mentioned in the impugned order dated 20.8.2010, reflects that allegations have been leveled against the petitioner for using defamatory words and circulating written material against the complainants/ respondents. Having regard to the aforesaid pre-summoning evidence, the petitioner has been summoned by the trial court for the offences under Section 500/509 IPC.

The petitioner is well aware of his right under Cr.P.C. to examine the aforesaid witnesses in the present case after being summoned.

4

Instead of exhausting the said right, he has rushed this Court by filing the present premature petition.

In the aforesaid facts and circumstances, this Court is not inclined to quash the proceedings arising out of the complaint case or set aside the impugned order dated 20.8.2010, as sufficient material was available on the record for summoning the petitioner. The petition is, therefore, dismissed being devoid of merits, along with the pending applications.



HIMA KOHLI, J

SEPTEMBER 24, 2010
sk