

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON : 1st FEBRUARY, 2013

DECIDED ON : 30th MAY, 2013

+ CRL.M.C. 3773/2003 & CRL.M.A.5093/2003

M.P.SINGH SAHNI

..... Petitioner

Through : Mr.M.P.Singh Sahni in person.

versus

STATE & ORS.

..... Respondents

Through : Mr.Harnam Singh in person.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. Present petition under Section 482 Cr.P.C. read with Article 227 of the Constitution of India has been preferred by the petitioner for quashing of order dated 05.01.2002 by which he was summoned for committing offence punishable under Section 500 IPC.

2. It reveals that complaint case was filed by respondent No.2 against the petitioner on 11.11.1997 for committing offence under Section 500 IPC. It was stated that on 22.07.1991 an agreement was executed with the petitioner by which he was to provide professional/ consultancy services to him. Several correspondences were exchanged between them

in pursuance of the said agreement. The complainant further alleged that the petitioner sent several fax messages thorough his FAX No.2465421 at Kuwait on his FAX and telephone No.6445057 and 6460681 respectively. He permitted the petitioner to send the messages at FAX No.6466796 installed at the residence of his tenant when his fax was out of order. The petitioner started using derogatory and un-parliamentary language in the fax messages sent by him at the fax installed at tenant's residence. Fax messages dated 02.09.1996, 06.08.1997, 10.08.1997 and 27.08.1997, contained un-parliamentary language. The petitioner was aware that the tenant will have the opportunity to read the fax messages. The petitioner with an intention to cause damage to his reputation published the defamatory material without due care and caution. A legal notice was served on 08.09.1997 to the petitioner through his counsel to tender unconditional apology. The petitioner did not send any reply.

3. The respondent No.2/ complainant examined himself as CW-1 besides producing CW-2 (Harminder Singh) in pre-summoning evidence. The Trial Court by the impugned order was of the view that there was sufficient evidence to proceed against the petitioner under Section 500 IPC. Aggrieved by the said orders the petitioner has preferred the petition.

4. It is pointed out that the respondent did not disclose the name of the tenant at whose residence the fax in question was installed. The respondent has filed various false cases to blackmail him. The respondent No.2 has controverted his arguments.

5. I have examined the contents of the fax messages proved on record in the pre-summoning evidence. Prima facie all these fax messages contain defamatory language. The fax messages were sent on FAX No.6466796 which is purportedly installed at the residence of the complainant's tenant. Legal notice dated 08.09.1997 (Ex.CW-1/Q) was sent which remained un-replied. At this stage, there was enough material before the Trial Court to proceed against the petitioner. The oral testimony of the petitioner was corroborated with the documentary evidence on record. CW-2 (Harinder Singh) also deposed that he had read contents of the fax messages (Ex.CW-1/A to Ex.CW-1/J) at the fax installed in the office. In the fax messages, the petitioner levelled allegations and imputations against the complainant. It finished his respect and reputation in their eyes. He also revealed the name of the tenant Anil Bahl at whose fax machine the messages were sent. The defence taken by the petitioner is to be considered by the Trial Court during the trial. It is not necessary to prove that the complainant actually suffered directly or indirectly from the

scandalous imputations alleged. It is sufficient to show that the accused intended to harm or knew or had reasons to believe that the imputations would harm the reputation of the complainant. Reputation can be defined to be good name, the credit, honour or character which is derived from a favourable public opinion or esteem and character by report. The right to enjoyment of a good reputation is a valuable privilege and necessary to human society. The complaint case contains sufficient material to proceed against the petitioner for committing offence under Section 500 IPC. I find no merits in the petition and the same is dismissed.

6. Interim order (if any) stands vacated. Pending application stands disposed of. Trial Court record (if any) be sent back forthwith.

(S.P.GARG)
JUDGE

MAY 30, 2013

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