

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No. M-1048 of 2015

Date of decision: 13.01.2015

Vinod Kumar Jhahria

.....Petitioner

versus

Sanjiv Chaturvedi

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr. Ramandeep Singh, Advocate for the petitioner

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?*

Kuldip Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for setting aside the order dated 25.8.2014 (Annexure P9), passed by the learned Sessions Judge, Hisar, affirming that of learned Judicial Magistrate 1st Class, Hisar dated 9.11.2012 (Annexure P7), whereby the complaint filed by the present petitioner was dismissed, after recording the preliminary evidence.

I have heard learned counsel for the petitioner and have also carefully gone through the file.

The petitioner, who is working as a Conservator of Forests, West Circle, Hisar, Haryana, had filed a complaint against the Divisional Forest Officer of his department, on the ground that when the accused was issued a show cause notice for use of the government vehicle, he submitted the reply (Ex.P1). In the said reply,

it was stated that the present petitioner- complainant has lost the balance of mind and that the only object of the complainant is to create obstacle in the official work. It was further stated in the reply that the complainant should take leave and get himself medically treated and that it will be considered that the expenses of the treatment are borne by the employees/ officers of the division. Copy of the letter was sent to Chief Forest Conservator (Protection-II).

I have heard the learned counsel for the petitioner.

Perusal of the order Annexure P7 passed by the learned Magistrate shows that the Magistrate has taken the view that the letter (Ex.P1) was the official reply and therefore, the same was not published. Sending of copy to the higher authority is no defamation in view of the exceptions of Section 499 IPC. It was noticed that the accused had submitted the reply to the show cause notice in his official capacity. The learned Sessions Judge also agreed with the view taken by the learned Magistrate.

I am of the view that in this case there was no publication of the said letter. The complainant had issued a show cause notice to the accused who is his subordinate. The accused submitted the reply, in which, intemperate language was used which according to the complainant is derogatory. The letter was meant for the complainant and therefore, there was no publication of the said material. The contention of learned counsel for the petitioner is that copy of the said letter was sent to the higher authority i.e. Chief Forest Conservator Protection -II which amounts to publication. In this regard, reliance has been placed on authority in the case of

I.D.Kaushik, HCS, S.D.O. (C) v. Gajraj Singh, 1997(1) R.C.R.

(Criminal) 729. I am of the view that the said authority is distinguishable. In the said case, the government servant has issued a letter to the higher authority leveling some allegations of corruption against his immediate boss. However, in the present case, letter (ExP1) was issued in reply to the show cause notice issued to the complainant. If some intemperate language has been used, departmental action could always be taken. However, the offence under Section 499/500 IPC is not made out. Therefore, there is no error in exercise of jurisdiction by learned Sessions Judge, Hisar, affirming the order of the learned Judicial Magistrate 1st Class, Hisar.

Consequently, the present petition is dismissed.

13.01.2015

gk

**(Kuldip Singh)
Judge**