

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-13089 of 2015

Date of Decision : 24.8.2015

Prem Parkash

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Anil Kumar, Advocate for the petitioner.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

The present petition, under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), is directed against the order dated 2.2.2015 passed by the learned Sessions Judge, Narnaul, whereby criminal revision filed by the petitioner-complainant was dismissed and the impugned order dated 23.5.2014 (Annexure P-8) passed by the learned Judicial Magistrate Ist Class, Mohindergarh, dismissing the complaint of the petitioner, was upheld.

Brief facts of the case, as noticed by the learned Sessions Judge in para 2 of his impugned judgement are that complainant Prem Parkash filed a criminal complaint no.77 of 2013 titled "Prem Parkash Versus Jagdish and another" under Sections 419/420,467,468,471,120-B IPC against the accused persons on the allegations that Jagdish and Ompati had put forth the wrong

information regarding their date of birth and in conspiracy with the Social Welfare Department showed themselves to be of the age of 60 years when their pension was started. In fact the age of Jagdish was less than 60 years in the month of April 2008 when the old age pension was received by him. Similarly Ompati fabricated the documents of her age showing her date of birth as 6.11.1947. When the matter was reported to the Social Welfare Department then their pension was stopped and accused no.1 was directed vide letter no.5213 dated 5.10.2012 to deposit the pension amount from the month of April 2008 upto August 2012 i.e. ₹ 28,550/- as principle amount and ₹ 7128/- as interest, total amounting to ₹ 35,668/- and accused no.2 was also directed vide letter No.5212 dated 5.10.2012 to deposit the pension amount from the month of April 2003 upto August 2008 i.e. ₹ 48000/- as principle amount and ₹ 21,600/- as interest total amounting to ₹ 69,600/- which they received in the form of old age pension for which they were not entitled. In this manner the accused persons received the pension amount by committing forgery. The complainant visited the office of Social Welfare Department, Narnaul, Distt. Mohindergarh, but the officials of the department colluded with the accused and did not take any action against the accused persons. The complainant got sent a registered notice dated 4.4.2013 to the Social Welfare Department, Narnaul through his counsel but despite receipt of notice, no action was taken by the department against the accused persons.

With a view to make out a prima facie case, complainant petitioner Prem Parkash appeared in the witness box as CW-1. Police report under Section 202 Cr.P.C., was sought. The only allegation sought to be proved by the petitioner-complainant against the accused-respondents was that the respondents have wrongly received the old age pension, for which they

were not entitled, because they have not attained the requisite age of 60 years for getting pension.

After hearing learned counsel for the petitioner-complainant and going through the evidence brought on record, including the police report under Section 202 Cr.P.C., the learned trial court came to the conclusion that the petitioner could not make out a prima facie case against the accused-respondents. Accordingly, the complaint was dismissed vide impugned order dated 23.5.2014 (Annexure P-8). Feeling aggrieved, petitioner filed his revision petition, which also came to be dismissed by the learned Sessions Judge, vide impugned judgement dated 2.2.2015 (Annexure P-9). Hence this petition at the hands of the complainant.

Learned counsel for the petitioner-complainant submits that there was cogent and reliable evidence brought on record by the petitioner, which was sufficient for summoning the accused-respondents. Since the learned courts below have failed to appreciate the true facts of the case as well as the evidence available on the record, in the correct perspective, the impugned judgements have resulted in serious miscarriage of justice and the same are liable to be set aside. He concluded by submitting that the approach adopted by both the learned courts below was patently illegal. He prays for setting aside the impugned orders, by allowing the present petition.

Having heard learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that in the peculiar facts and circumstances of the case, noticed herein above, instant one has not been found to be a fit case, warranting interference at the hands of this court, while exercising its inherent jurisdiction under Section 482

Cr.P.C., for the following more than one reasons.

A combined reading of both the impugned orders passed by the learned courts below would show that the learned trial court as well as the revisional court examined, considered and appreciated all the relevant aspects of the matter before recording their cogent findings in support of their respective judicious conclusions. The factual aspect of the matter as well as the evidence brought on the record were appreciated in the correct perspective. None of the courts has been found to have committed any factual or legal error, while passing their respective impugned orders and the same deserve to be upheld.

It was a matter of record that allegations levelled by the petitioner have been tested thrice and every time were found to be without any substance. Firstly, his complaint was enquired into by the police authorities and the allegations levelled were found to be bereft of any merit. Secondly, the learned trial court allowed the petitioner to bring on record the preliminary evidence, which he did, but failed to make out even a prima facie case against the respondents. The learned trial court was well justified to dismiss the complaint of the petitioner, vide impugned order dated 23.5.2014 (Annexure P-8).

Thirdly, the learned Sessions Judge also dismissed the revision petition of the petitioner, because the impugned order passed by the learned trial court was not found suffering from any patent illegality. In addition to this, the learned trial court rightly sought the police report under Section 202 Cr.P.C., which also came against the petitioner. Having said that, this court feels no hesitation to conclude that the petitioner was bent upon to cause maximum harassment to the innocent and old persons, with a view to wreck

his vengeance, by resorting to glaring misuse of the process of court. Thus, impugned orders deserve to be upheld, for this reason also.

It is also a matter of record that old age pension of the respondents had been stopped. Whatever meager amount, which might have been received by the respondents-accused was under process of recovery, as recorded by the learned trial court in its impugned order. However, it does not appeal to reason as to how the petitioner was competent to institute and pursue the complaint, particularly when matter had already been enquired into by the police and no substance was found in the allegations levelled by the petitioner. In this view of the matter, it can be safely concluded that the learned courts below committed no error of law, while passing their respective impugned orders and the same deserve to be upheld, for this reason as well.

The above said view taken by this court also finds support from the observations made by the Hon'ble Supreme Court in the case of **Punjab National Bank and others Vs. Surendra Prasad Sinha**, 1993 Suppl. (1) SCC 499. The relevant observations made by the Hon'ble Supreme Court in para 6 of the judgement, read as under :-

“ It is also salutary to note that judicial process should not be an instrument operation or needless harassment. Their lies responsibility and duty on the Magistracy to find whether the concerned accused should be legally responsible for the offence charged for. Only on satisfying that the law casts liability or creates offence against the juristic person or the persons impleaded them only process would be issued. At that stage the court would be circumspect and judicious in exercising discretion and

should take all the relevant facts and circumstances into consideration before issuing process lest it would be an instrument in the hands of the private complaint as vendetta to harass the persons needlessly. Vindication of majesty of justice and maintenance of law and order in the society are the prime objects of criminal justice but it would not be the means to wreck personal vengeance.”

Coming to the facts of the present case and respectfully following the law laid down by the Hon'ble Supreme Court in **Surendera Prasad Sinha's case (supra)**, it is unhesitatingly held that since the petitioner was found misusing the process of law, the learned courts below rightly dismissed his complaint vide impugned orders.

Further, during the course of hearing, learned counsel for the petitioner could not point out any patent illegality or jurisdictional error in any of the impugned orders, so as to convince this court to take a different view than the one taken by the learned courts below. It is pertinent to note here that although the jurisdiction of this court under Section 482 Cr.P.C. is wide enough, yet it is equally true that the inherent jurisdiction is to be exercised sparingly and with circumspection. Present one has not been found to be a case, which may warrant the exercise of its inherent jurisdiction under Section 482 Cr.P.C., at the hands of this court.

No other argument was raised.

Considering the peculiar facts and circumstances of the case, noticed herein above, this court is of the considered view that instant petition is wholly misconceived, bereft of merit and without any substance, thus, it

must fail. No case for interference has made out.

Resultantly, with the above said observations made, instant petition stands dismissed, however, with no order as to costs.

24.8.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE