

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-14754 of 2014 (O&M)
Date of Decision: February 16, 2015

N.K.Monga

...Petitioner

VERSUS

Satpal

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Tribhawan Singla, Advocate
for the petitioner.

Mr.Satish Goel, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of complaint No.115 dated 08.03.2007 under Sections 323, 452, 499, 500, 506 and 34 IPC and summoning order dated 11.05.2012 passed by learned Judicial Magistrate Ist Class, Barnala, being illegal, arbitrary, malafide and abuse of the process of the law.

It is mainly stated in the petition that respondent-complainant filed a complaint under Sections 323, 452, 499, 500, 506 and 34 IPC on 03.03.2007 on the ground that the complainant is doing the business of commission agent and he has got the limit in the name of his firm from State Bank of Patiala, Branch Sehna and he approached the petitioner for enhancement of the limit against

mortgaging the property in the name of complainant's wife and on the asking of the bank employees including the petitioner, he prepared all the documents for enhancement of the limit for his firm but the petitioner along with other employees demanded ₹12,000/- and on complainant's refusal, they threatened to cancel the already granted limit. It is further stated in the complaint that petitioner along with other bank employees are nursing grudge against the complainant. On 03.02.2007, these persons forcibly entered complainant's house and started measuring the same on the pretext that the house is lying mortgaged with the Bank and raised the voice that they will auction the house and factory and when complainant's family tried to stop them, they threatened and punch upon the complainant and his son was pushed from back. The matter was reported to the police but police did not take any action. Respondent-complainant also moved an application to the SHO, Police Station Sehna alleging that the petitioner along with other bank officials had entered in their house and shop and further they have called bad names to his father. The police investigated the matter and found that nothing has happened as alleged and complaint was closed.

It is further stated in the petition that despite the report made by the police that nothing has happened, learned trial Court, on the basis of preliminary evidence of the complainant, summoned the petitioner along with co-accused vide impugned order dated 11.05.2012.

Notice of motion was issued and learned counsel for the

respondent appeared, filed reply and contested the petition.

I have heard learned counsel for the petitioner as well as learned counsel for the respondent and have gone through the record.

From the record, I find that the complaint was filed by Satpal against N.K.Monga, Field Officer, Vikash Kumar, Manager, State Bank of Patiala and Rakesh Bansal, Draftsman and Valuer, mainly on the allegations as already stated in the revision petition. Learned JMJC, Barnala vide impugned order dated 11.05.2012, summoned the petitioner N.K.Monga along with co-accused Vikas Kumar only under Sections 323, 452, 499, 500, 506 and 34 IPC.

The perusal of the record shows that it is admitted fact that the complainant got fixed his limit and then complainant and his brother asked for enhancement of the limit. It is also admitted fact that properties were mortgaged while getting the limit enhanced. Even if, it is taken that the present petitioner along with draftsman has gone to measure the property, no offence is made out. The property is under mortgage with the bank and the bank official is to get the valuation of the property. There is no MLR on the record nor any doctor has been summoned to prove any injury under Section 323 IPC. Similarly, if the Bank Official has measured the property and had gone to factory and the shop also, in no way, it amounts to defamation.

Further, I find that the complainant has also reported the matter to the police. Annexure P-2 is the application given to the police, in which complainant stated that on 03.02.2007, N.K.Monga

and two other persons came to their house and abused their women and they have not given any notice or information before visiting whereas they (complainant) were sitting on their shop. They have no right to go alone to their house. They have also abused the complainant and his nephew at their shop Suresh Cloth House and said that there are orders for attaching the shop and house. It is further stated in the application that when complainant met to Mr.Monga with regard to the same, he asked the complainant to contact the Manager and when complainant met the Manager and said that he will take the loan against the sale deed of his factory and asked the Manager why he has sent the employees to their house, then Manager asked the complainant not to restrain their work. Manager further said that they will not give anything in writing and if needed, they can bring their women. It is also stated in the application that the aforesaid staff also went to complainant's factory and also abused his father.

Keeping in view this application as given by Satpal to SHO, Police Station Sehna on 03.02.2007 on the same day, shows that no such occurrence took place as stated in the complaint and material improvements and additions have been made while lodging the complaint. The perusal of this application shows that only bank officials had gone to their house. There is nothing to show that they have given threat. There is nothing that they have measured the property. There is also nothing that they have put on stake the reputation of the complainant's party. There is nothing that

N.K.Monga has given any punch blow to the complainant etc. Enquiry by the police official Annexure P-2 is also on the file, in which it is stated that nothing has come with regard to any abuse and from the investigation of the complaint, no offence is made out.

Keeping in view the facts and circumstances of the present case, I find that the filing of the present complaint is nothing but abuse of process of the law. Even if, it is taken that bank officials had gone to see the properties for the purpose of valuation of the properties to be mortgaged etc., as the loan limit had to be enhanced, no offence is made out. Otherwise also, filing of the complaint on the same day to the police shows that no offence is made out and present complaint has been filed after concocting version, which is clear from the documents placed on the record.

In view of the above discussion, I find that the complaint filed by the complainant, is nothing but abuse of process of law. Therefore, finding merit in the present petition, the same is allowed. Complaint No.115 dated 08.03.2007 under Sections 323, 452, 499, 500, 506 and 34 IPC and all other subsequent proceedings arising therefrom including the summoning order dated 11.05.2012 are hereby quashed.

February 16, 2015
Vgulati

(INDERJIT SINGH)
JUDGE