

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-1786 of 2015

Date of Decision : 08.04.2015

Baldev Singh

.....Petitioner

Versus

Pargat Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers 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?*

Present: Mr. Gaurav Rana, Advocate
for the petitioner.

R.P. Nagrath, J. (Oral)

Petitioner has invoked the jurisdiction of this Court under Section 482 Cr.P.C. seeking to set aside the order 29.01.2013 passed by the Sub Divisional Judicial Magistrate (SDJM), whereby learned Magistrate refused to issue process against the respondent and also the order dated 02.09.2014 of the Additional Sessions Judge whereby revision against that order was dismissed.

2. The petitioner filed a complaint seeking to summon the respondent as an accused under Section 419 of the Indian Penal Code (IPC) alleging that the respondent got his name printed on the foundation stone of the road depicting himself as *sarpanch* of the village. The foundation stone was to be laid by the MLA of the area Beas on 28.12.2008 and at that time Gurinder Kaur was the

sarpanch of the village. The complainant petitioner-appeared as CW-1 and examined his wife as CW-2 in support of his case. He also tried to prove his contention on the basis of photograph of the foundation stone.

3. Learned counsel for the petitioner, vehemently, contended that at the stage of issuing process against the accused, learned Magistrate is only required to see whether there are sufficient ground to proceed against the accused and not that there is sufficient evidence for his conviction. There cannot be any quarrel with the above proposition but the view adopted by the courts below on the basis of material available was the possible and in fact correct one which should not be interfered with in exercise of discretion of this Court under Section 482 Cr.P.C.

4. It has been observed by learned revisional Court that there was no evidence to suggest as to who got the name of the respondent printed on the foundation stone. Moreover, the foundation stone pertains to the Public Works Department branch of the State Government. Learned Magistrate also observed and rightly so that the petitioner-complainant did not summon the record of the *panchayat* to know the name of *sarpanch* as on 28.12.2008. Learned Magistrate further found that the ingredients of Section 419 IPC are also not attracted at all. The law is quite well settled that the power under Section 482 Cr.P.C. has to be exercised sparingly and such power shall not be utilized as a substitute for second revision. Ordinarily, when a revision has been barred under

Section 397 (3) Cr.P.C. Hon'ble Supreme Court held in **Rajathi vs. C. Ganesan 1999 Cri.LJ 3668** that the High Court can entertain a petition under Section 482 Cr.P.C. when there is serious miscarriage of justice and abuse of the process of the court or when mandatory provisions of law were not complied with and when the High Court feels that the inherent jurisdiction is to be exercised to correct the mistake committed by the revisional court.

5. In view of the above, I find no merit in the instant petition and the same is dismissed.

April 08, 2015
jk

(R.P. NAGRATH)
JUDGE