

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-28335-2012
Date of decision:14.8.2015

Manjit

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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

Present: Mr.Manoj Chahal, Advocate for the petitioner.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

Mr.Surender Lamba, Advocate for respondents
No.2 and 4 to 9.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant petition, at the hands of the complainant, by way of under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), is directed against the order dated 21.3.2012 passed by the learned Additional Sessions Judge-III, Bhiwani, whereby revision of the respondents-accused was allowed and the order dated 2.5.2011 passed by the learned Additional Chief Judicial Magistrate, Bhiwani, charge sheeting the accused-respondents, was set aside.

Notice of motion was issued and pursuant thereto, reply was filed on behalf of the respondent-State, whereas a separate reply was filed on behalf of the respondents-accused.

Learned counsel for the petitioner submits that the learned trial

Court rightly framed the charges against the accused-respondents, which were illegally set aside by the learned Additional Sessions Judge-III, Bhiwani, by way of impugned order dated 21.3.2012. He further submits that petitioner filed a criminal complaint against the respondents-accused, which was very much maintainable. However, since the learned Additional Sessions Judge proceeded on a misconceived approach, while passing the impugned order, the same is liable to be set aside. He prays for setting aside the impugned order, by allowing the present petition.

On the other hand, learned counsel for the State submits that the present petition is nothing but it is apparent misuse of process of law. The allegations levelled by the petitioner were duly enquired into and were found totally baseless. In fact, during the course of enquiry, complainant did not come forward to substantiate any of the allegations levelled by him. The complaint was found without any substance and it was filed. No cognizable offence was found to be made out. Petitioner filed his private complaint, launching a false prosecution against the respondents-accused. He prays for dismissal of the present petition.

Similarly, learned counsel for the respondents-accused vehemently contended that the present petition is liable to be dismissed with exemplary costs, because the petitioner is misusing the process of law. He further submits that the learned Additional Sessions Judge-III, Bhiwani, committed no error of law, while passing the impugned order which deserves to be upheld. He also prays for dismissal of the instant petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful

consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the instant case, the present 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.

During the course of hearing, when a pointed question was put to the learned counsel for the petitioner as to how an offence of any kind, whatsoever, was made out against the respondents-accused in the peculiar facts and circumstances of the case, he had no answer and rightly so, it being a matter of record. In fact, the complaint itself was wholly misconceived. It was the result of political rivalry. In such a situation, respondents-accused were not liable to be charge-sheeted. However, since the learned Additional Chief Judicial Magistrate, Bhiwani, adopted a procedure, contrary to the relevant provisions of law, the impugned charge-sheet was rightly set aside by the learned Additional Sessions Judge-III, Bhiwani, while passing the impugned order and the same deserves to be upheld.

Further, no prejudice has been found to have been caused to the petitioner, by passing the impugned order. In fact, the learned Additional Sessions Judge-III, Bhiwani, committed no error of law, while passing the impugned order. The relevant part of operative para 8 of the impugned order, reads as under:-

“One fails to understand as to why Block Development and Panchayat Officer who could be the best witness was not examined or cited by the complainant. When as per Ex. P5 the Block Development and Panchayat Officer had written to the

Deputy Commissioner, Bhiwani that he had no power to conduct the enquiry against the complainant, this falsifies the whole of the story about his having gone to the Jui Veterinary Hospital for conducting the enquiry and summoning the complainant for the same. Moreover, it has not come in evidence or in the complaint itself that anyone had told the complainant that he had developed a poor impression about the complainant and earlier he had been holding her in high esteem and on account of utterances and gestures which are behind the setting of the criminal law in motion by the complainant. It goes without saying that making complaint to a higher authority does not attract defamation. In this case the procedure adopted was for warrant trial cases notwithstanding the fact that it was a summons trial case and there is no order under Section 259 of the Code of Criminal Procedure, 1973. Thus there was no need to record the pre-charge evidence before framing the charge which was recorded in this case. It appears that this has happened due to zeal to dispose of more cases and on account of inadequate assistance of the counsel for the parties. In these circumstances, there is merit in the revision petition and the same is hereby allowed and the order of charge-sheeting the revisionist is hereby set aside.”

A bare reading of the above-said relevant part of the order would show that the learned Additional Sessions Judge has proceeded on a factually correct and legally justified approach, while arriving at a judicious conclusion. During the course of hearing, learned counsel for the petitioner could not point out any jurisdictional error or patent illegality in the impugned order passed by the learned Additional Sessions Judge-III, Bhiwani, so as to convince this Court to take a different view than the one taken by the learned Additional Sessions Judge. In such a situation, no interference is warranted at the hands of this Court and the impugned order

deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noticed above, coupled with the reasons aforementioned, this Court is of the considered view that the instant petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

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

14.8.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE