

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**Crl. Misc. No. M-37683 of 2013(O&M)  
Date of decision : 12.08.2015**

**Ravinder**

**..... Petitioner**

**versus**

**Smt. Anita & Anr.**

**... Respondents**

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

**CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

**Argued by: Mr. Sanjay Vashisth, Advocate  
for petitioner.**

**Mr. Sumit Sangwan, Advocate  
for respondent No.1.**

**\*\*\***

**ANITA CHAUDHRY, J.**

The petition has been filed under Section 482 Cr.P.C., where the petitioner has laid challenge to the judgment dated 23.09.2013 dismissing the revision preferred against the order dated 08.07.2013 vide which charge under Section 500 IPC was framed against him.

Before proceeding further, it is necessary to first notice the background of the case.

The petitioner was married to respondent No.1 on 09.12.2002. The marriage failed, leading to registration of criminal case at the instance of respondent No.1 against the petitioner, his mother and sisters Suman and Kusum. The petitioner and his mother only were convicted and sentenced

under Sections 406 and 498-A IPC. Their appeal bearing No. CRA-S-1607-

SB of 2007 is stated to be pending before this Court.

In the year 2005 the petitioner filed a divorce petition against respondent No.1 seeking divorce on the ground of cruelty. Some allegations concerning the character of the wife were also levelled. After contest, the divorce petition was dismissed on 13.12.2007. Dis-satisfied with the same, the petitioner filed FAO-M No.49 of 2008. Respondent-wife appeared in the appeal and the case was referred to the Mediation and Conciliation Centre of this Court, where a compromise was arrived at between the parties. Both the parties agreed to get the marriage dissolved by mutual consent. It was also agreed that the settlement for mutual divorce would have no effect on any other matter pending in the Court between the parties. On the basis of compromise, the appeal filed by the petitioner was converted to Section 13-B of the Hindu Marriage Act and it was allowed on 21.08.2009. A decree of divorce by mutual consent was passed.

The dispute in hand pertains to the complaint filed by respondent No.1 in the year 2008 under Sections 500 and 501 IPC against the petitioner and his father, in which after recording preliminary evidence, they were summoned by the Court to face trial. Vide order dated 23.09.2013 the petitioner and his father were charge-sheeted under Section 500 IPC. Aggrieved with the same, the accused filed a revision before the Sessions Court, which has been partly accepted and father of petitioner was discharged while it was maintained to the extent of petitioner. Dis-satisfied with the same, the petitioner has filed the instant petition.

Upon notice, respondent No.1 appeared and contested the petition on the ground that the settlement arrived in divorce petition had no

effect on any other proceedings pending in Court. It was alleged that the petitioner had made imputations against her character with the intention and knowledge to harm her reputation in the eyes of her family and other persons. Finding prima facie case against the accused, they were charge-sheeted.

Learned counsel for the petitioner had urged that though the divorce petition was dismissed by the trial Court, but no observation was returned that the allegations levelled by the petitioner were false and it was simply held that the petitioner had failed to prove the allegations of adultery. He further urged that against the said dismissal, petitioner had filed an appeal before this Court and before the same could be decided on merits, a compromise was arrived at between the parties and his petition was converted into petition under Section 13-B of the Hindu Marriage Act and was allowed accordingly. The legality and propriety of judgment of dismissal was not tested by this Court as there was a compromise and had there been no compromise, the petitioner would have pursued the appeal on merits. In that situation, the allegations levelled could not be made the basis for a complaint of defamation. He had vociferously urged that offence of defamation cannot be attracted only from a reading of pleadings and evidence by Presiding Officer and Advocates of the parties. Reliance had been placed on **G. Janardhana Reddy. Vs. A. Narayana Reddy & Anr. 2010(2) RCR(CrL) 501(AP)**. He had further contended that the remedy with regard to the allegations in the divorce petition was to file an application under Section 340 Cr.P.C. for prosecution of the husband and not a complaint under Section 500 IPC. He had referred to a decision of this

Court in **Jit Singh Vs. Baljit Kaur 1999(3) RCR(Crl.) 406.**

Learned counsel for respondent No.1 had submitted that once the charges are framed, the Court cannot embark upon an enquiry as to the reliability of the offences to sustain the allegations made in the complaint and it is for the trial Court to see whether the allegations are proved or not. He had referred to **Dr. Monika Kumar & Anr. Vs. State of U.P. & Ors. 2008(3) RCR(Crl.) 548.**

I have heard the learned counsel for the parties and have gone through the paper-book carefully.

The petitioner took the ground of illicit relations of respondent No.1 with Daya Chand. A perusal of judgment dated 13.12.2007 passed by the District Judge, it is apparent that the Court observed that the petitioner had miserably failed to prove that the respondent was having illicit relations. It was nowhere held that the ground taken by the petitioner was false. The divorce petition was dismissed. An appeal was filed by the petitioner, before the same was heard merits, a compromise was arrived at between the parties and a decree of divorce was passed. The judgment of dismissal was never judicially examined by this Court. There is force in the contention of learned counsel for the petitioner that had there been no compromise, the petitioner would have contested his appeal on merits before this Court. In the settlement, it was specifically mentioned that the same had no effect on any other proceedings pending in the Court between the parties, but the respondent had not disclosed that she had instituted any complaint. Had it been revealed it could just be that the petitioner would not have agreed to the terms. In the considered opinion of this Court once the

parties had resolved their dispute amicably and parted ways, continuance of prosecution of the petitioner on the basis of some allegations made by him while seeking divorce, which was ultimately granted though on the basis of compromise, would be an abuse of process of law and would not attract defamation. Support can be taken from Jit Singh's and G. Janardhana Reddy's cases (supra).

It is relevant to refer to what has been observed in G. Janardhana Reddy's case while holding that the reading of pleadings and evidence by the Presiding Officer or the Advocates of the parties do not constitute defamation. Paras 4 and 5 read thus :-

*“4. After the 1st respondent lost his civil suit, he filed C. C. No. 3 of 2006 in the lower Court on 10-3-2005. It is evident that the criminal case is filed by the 2nd respondent with a mala fide intention and with a view to harass the petitioner and to coerce him for terms in the pending appeal and also with oblique motive. Without the petitioner contending in the suit that revenue records filed by the 1st respondent as false, fabricated and forged, there is absolutely no other case which can be put forward by the petitioner in the civil suit in order to attack claim of the 1st respondent therein. Prima facie, such allegations in the pleadings in civil suits are not per se defamatory, unless the petitioner had any previous score with the 1st respondent. Except this civil litigation, which the 1st respondent himself started, the petitioner has no other dispute with the 1st respondent. Therefore, it cannot be said that the*

*petitioner had any intention to defame the 1st respondent or that the petitioner maliciously made those allegations in his pleadings. Secondly, those allegations in the petitioner pleadings and affidavit in the suit cannot be termed as defamatory. Thirdly, it is not a case where the alleged defamatory statements were published by way of any public notice or public statement or in any public meeting. They were made in Court proceedings in writing and no outsider had any occasion to read the same.*

*5. It is alleged in the complaint that the alleged imputations would have been read by his advocate, junior advocates of his advocate, the petitioner's advocate and juniors of that advocate and also presiding officers of the III Additional Junior Civil Judge Court and Principal District Judge, Chittoor. No doubt, what all written in pleadings and evidence is expected to be read by presiding officers of the Court in which they were filed. The advocates appearing on both sides have no independent interest or entity in Court proceedings except as representing the parties for whom they are appearing. They are only agents of the parties who engaged them. Thus, there is absolutely no general publication of the alleged imputations when they were made in pleadings and evidence in a Court of law. Further, Section [499](#) of the Indian Penal Code contemplates making or publication of imputation with an intention to harm reputation of the other person. In the*

*case on hand, intention of the petitioner is evident that he made the same with an intention to preserve the disputed site to the deity and not with an intention to harm reputation of the first respondent. In that view of the matter, pleadings i.e., written statement, counter and appeal grounds and evidence by way of affidavit in this case cannot be defamatory in nature.”*

The argument regarding the maintainability of the petitioner can very well be answered by referring to **Satish Mehra Vs. State of N.C.T. of Delhi & Anr. AIR 2013 SC 506**, wherein it has been observed thus:-

*“15. The power to interdict a proceeding either at the threshold or at an intermediate stage of the trial is inherent in a High Court on the broad principle that in case the allegations made in the FIR or the criminal complaint, as may be, prima facie do not disclose a triable offence there can be reason as to why the accused should be made to suffer the agony of a legal proceeding that more often than not gets protracted. A prosecution which is bound to become lame or a sham ought to be interdicted in the interest of justice as continuance thereof will amount to an abuse of the process of the law. This is the core basis on which the power to interfere with a pending criminal proceeding has been recognized to be inherent in every High Court. The power, though available, being extra ordinary in nature has to be*

*exercised sparingly and only if the attending facts and circumstances satisfies the narrow test indicated above, namely, that even accepting all the allegations levelled by the prosecution, no offence is disclosed. However, if so warranted, such power would be available for exercise not only at the threshold of a criminal proceeding but also at a relatively advanced stage thereof, namely, after framing of the charge against the accused. In fact the power to quash a proceeding after framing of charge would appear to be somewhat wider as, at that stage, the materials revealed by the investigation carried out usually comes on record and such materials can be looked into, not for the purpose of determining the guilt or innocence of the accused but for the purpose of drawing satisfaction that such materials, even if accepted in its entirety, do not, in any manner, disclose the commission of the offence alleged against the accused.”*

Furthermore, in the case of **State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors. 1991(1) RCR (Crl.) 383 (SC)**, the Hon'ble Supreme Court had observed that where the proceeding is instituted with an ulterior motive or where the allegations made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint/ FIR.

Thus, there is no legal impediment in exercising the powers under Section 482 Cr.P.C. with an object to meet the ends of justice and prevent the abuse of the process of the Court.

Therefore, in view of the discussion made above, the instant petition is allowed and the impugned orders are set aside and the petitioner is discharged.

**August 12, 2015**  
**Jiten**

**(ANITA CHAUDHRY)**  
**JUDGE**