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

**CRM-M-38318-2014
Date of decision : 14.12.2015**

Sukhamjit Kaur

..... Petitioner

VERSUS

Lal Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: None for the petitioner.

Respondent in person.

M.M.S. BEDI, J.(Oral)

This is a petition under Section 482 Cr.P.C filed by petitioner-Sukhamjit Kaur challenging the criminal proceedings initiated against her under Section 499, 500 IPC.

As per the allegations in the complaint dated 03.10.2011 filed by the respondent, the present petitioner had filed a civil suit for declaration to the effect that she was owner of plot No.2294, situated at Sector 32-A, Samrala Road, Ludhiana and that she was also entitled to the allotment of the said plot. She sought transfer of the plot in her name. She alleged that transfer of the said plot in the name of respondent-husband, who was impleaded as defendant No.2, was illegal, null and void. In the said case, Punjab Urban Development

Authority (PUDA) through the Estate Officer had also been impleaded as a party. She had withdrawn the said civil suit.

The respondent has filed complaint under Section 499, 500 IPC alleging that the petitioner had filed civil suit and later on withdrawn the same to defame the complainant.

The respondent appearing in person has submitted that the petitioner had wrongly made a statement that talk regarding compromise was going on with PUDA. He states that said statement was wrongly made in the Court.

After going through the record, I am of the opinion that by merely filing a civil suit and thereafter suffering a statement to withdraw the suit will not ipso facto tantamount to commission of an offence falling under the definition of Section 499 IPC warranting conviction under Section 500 IPC.

Learned Judicial Magistrate while passing summoning order on 04.09.2013 has not taken into consideration the necessary ingredients required to constitute defamation.

The respondent-complainant has not established prima facie that any words either spoken or intended to be read concerning him had harmed his reputation or that the petitioner had committed any act with an intention to harm the reputation of the respondent. A suit for declaration can be filed by any person to enforce legal rights as per Section 34 of Specific Relief Act. The relief of injunction can be claimed as per provisions of Section 37 and 38 of the said Act. Order 23, Rule 1 Civil

Procedure Code enables a plaintiff, at any time, to abandon his suit or part of his claim. When a party exercises a legal right or abandon the legal right permissible in law and the complainant in a complaint under Section 499, 500 IPC is not able to prima facie establish the intention and the actual damage to the reputation, the launching of prosecution under Section 499 and 500 IPC would be an abuse of process of the law.

I have considered the facts of the present case in the light of judgment in **State of Haryana and others Vs. Ch. Bhajan Lal and another, AIR 1992 (SC), 604** and I am of the opinion that filing of complaint is nothing, but an abuse of process of the Court. The unrebutted allegations in the complaint, Annexure P-2, do not constitute an offence.

This petition is allowed. The complaint and the summoning order are hereby quashed.

December 14, 2015
Ramandeep Singh

(M.M.S. BEDI)
JUDGE