

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

**CRM-M No.42379 OF 2013
DATE OF DECISION : 05.08.2015**

SHALU @ SHALINI AND OTHERS

....PETITIONERS

VERSUS

MANMOHAN ALIAS MUNNY AND ANOTHER

.....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether reporters of local newspaper may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the digest?

Present : Mr. Satbir Rathore, Advocate
for the petitioners.

Mr. Anurag Singh Tagra. Advocate
for respondent No.1.

Mr. Munish Sharma, AAG Haryana.

FATEH DEEP SINGH, J.

This is a petition by petitioners-original accused seeking quashment of complaint under Section 500/34 IPC, Annexure P1 as well as summoning order dated 6th May, 2013 (Ex.P7) along with all consequential proceedings in the exercise of powers under Section 482 Cr. P.C.

The brief facts are that respondent No.1-Manmohan

@ Munny had entered into a wedlock with petitioner No.1-Shalu @ Shalini, daughter of petitioner No.2 and sister of petitioners No.3 and 4 against the wishes of the family on 3rd August, 2009. It is claimed that the couple had filed Criminal Misc. No.M-21603 of 2009 in this Court seeking protection of life as well as personal liberty. It is alleged that a complaint was filed by the father of the girl before Police Post, Buria Chowk, Jagadhari, Haryana against Manmohan @ Munny, Rahul and Shiv Kumar that they had kidnapped her daughter leading to registration of FIR No.385 dated 08.08.2009 with P.S. City Jagadhari, District Yamunanagar for the commission of offences under Section 363/366 IPC read with Section 120-B IPC.

As a consequence of this FIR, brother of the accused and four others were arrested who thereafter stood acquitted. It is alleged that the Police had handcuffed them and an impression was given and by the insult the same which fell within the domain of defamation. It was on the basis of this acquittal Manmohan Kumar @ Munny filed a complaint under Section 500/34 of the IPC Annexure P-1 and on the basis of statements Annexure P-2 to P6/T they have been summoned through impugned order Annexure P7. The main stake of the arguments of Sh. Satbir Singh Rathore, Advocate for the petitioners, Mr. Anurag Singh Tagra, Advocate for respondent No.1, Mr. Munish Sharma, AAG Haryana for the State is over the Ninth Exception of the provisions of Section 499 IPC and the same is reproduced as below:-

*“Defamation-Whoever, by words either spoken
or intended to be read or by signs or by visible*

representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.

Ninth Exception - Imputation made in good faith by person for protection of his or other's interests.- It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good”.

A clear reading of these provisions lay out that it is not a defamation, if an imputation is made on the character of another if that imputation is made in good faith regarding protection of interest of the person making it or any other person or for a public good. Reverting back to the present case, the very complaint Annexure P-1 reflects that it was upon the arrest of the persons in matrimonial the criminal case got registered by the father of the girl, the present complainant respondent No.1 and others who were accused stood acquitted and there is only imputation that the accused in the earlier case complainant in the present complaint namely Manmohan @ Munny by this accusation feels humiliated at the hands of these persons and thus was defamed in the eyes of general public. It is

nowhere prima facie shown even in the complaint that there was publication of these imputations, their manner with date, time and other essential particulars. Purely because the accused in the said case was arrested and put to trial does not mean or necessarily, shows that there was any imputation qua defamation by the complainant in the said case. The summoning order on the basis of this complaint Annexure P-7, purely on the basis of prima facie case principle has summoned the accused totally in oblivion of the statutory provisions.

Thus, it all reflects that the complaint out of which the present petition has arisen is not only false and frivolous allegations but there is a legal bar as per the provisions by way of exceptions enshrined to section dealing with defamation in the Penal Code and which is settled position of law as has been laid down in the *State of Haryana and others Vs. Ch. Bhajan Lal and others, 1992 AIR 604*. It is a well within the ambit of this Court to invoke powers under Section 482 Cr. P.C., and quash such a complaint and summoning orders which appears to the Court to be a pure misuse of the process. There had been a false information to the Police as claimed by the present complainant, the same is covered within the domain of Section 182 IPC and since it was pure complaint by the complainant in the said case to the Police and it could not be termed to be a defamation and rather is in good faith an accusation leveled against a person to one who was in lawful authority to act on the basis of that very complaint. Thus from this all flows that nothing legitimately can be secured by the impugned

proceedings and the same are thus quashed by way of acceptance of the present petition, thereby, quashing the complaint (Annexure P1) as well as the summoning order (Annexre P7) and all the consequential proceedings arising thereof.

AUGUST 05, 2015

Dpr

(FATEH DEEP SINGH)
JUDGE