

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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Criminal Revision No.2340 of 2013
Decided on : 07.05.2015

Jog Raj @ Yog Raj

... Petitioner

Versus

Usha Jeol and others

... Respondent

CORAM : HON'BLE MR.JUSTICE HARI PAL VERMA

Present : Mr.H.S.Dhindsa, Advocate for the petitioner.
Mr.B.S.Sra, Advocate for respondents No.1, 2, 4 and 5.
Ms.Geeta Sharma, Advocate for respondent No.3.

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

Hari Pal Verma, J.

Petitioner, Dr.Jog Raj @ Yog Raj, has filed the present revision petition against the impugned judgment dated 19.03.2013 passed by learned Additional Sessions Judge, Kapurthala whereby his appeal against the judgment dated 07.05.2010 passed by the learned Special Judicial Magistrate, Kapurthala acquitting the respondents-accused was dismissed.

Briefly stated, that the petitioner-complainant while posted as a Senior Divisional Medical Officer at RCF Hospital, Hussainpur from 4.6.1994 till 11.1.1999, has been discharging his duties diligently, honestly and will full respect and honour. In the staff, respondent No.3-Smt.Surjit Agnes (Materon) of the hospital had

some verbal quarrel with one employee, namely, Ganesha Singh. She lodged an FIR No.44, dated 14.09.1996 under Sections 186, 354 and 506, IPC in Police Station Sadar, Kapurthala against that employee. The complainant appeared as a defence witness in that case and ultimately on 28.4.1998, Ganesha Singh was acquitted by the trial court. It is on account of this grudge, respondent No.3 started making false complaints against the petitioner-complainant. Petitioner-complainant has stated in his complaint that on 31.5.1998 when he had conducted in a routine manner, he found behaviour of accused No.2, namely, Anjleena to be rude and arrogant with some other irregularities. He also found the said employee absent. Similarly, on 1.6.1998, he found Smt.Usha Jeol, Nursing Sister not in proper uniform while on causality duty and she was found playing with a child during duty hours. She was also found using filthy language against the doctor in the presence of the patients and certain other irregularities. Accordingly, petitioner issued a letter to accused No.1, Smt. Usha Jeol, regarding these irregularities and her behaviour. He also changed the duties of staff nurse on administrative grounds.

In view of the aforesaid harsh action, all the accused with common intention, hatched a conspiracy to defame him (complainant/petitioner) and to lower the image of the complainant, in the eyes of the employees, who were working in the Rail Coach Factory, relatives and colleagues. All the accused started making false and baseless complaints and representations to the higher

authorities and started openly defaming the complainant in order to lower his image and spoil his reputation. On 8.6.1998, accused Nos.1 to 5 in connivance with respondent No.6 made a false complaint alleging therein that the complainant is behaving rudely and saying that the complainant is their friend and further used abusive and derogatory language. The false and defamatory language used by him as under:-

“I will set right every staff nurse. Any staff nurse, who does not mend her ways, I shall pass through my private organ from front and behind. If she even then does not get right, then I shall put my private organ into her mouth and she says that they should be mated with a horse.”

This complaint was forwarded to Smt. Mamta Banerjee, Chairman, Standing Committee, Railways, with a forwarding letter of Jaswant Singh, accused, under their own signatures. On 17.10.1998, all the accused again in connivance with Jaswant Singh, accused made a false complaint to Union Minister of State for Railway, New Delhi alleging misbehavior and insulting language being used by the complainant. This was totally false and baseless complaint. Besides the above allegations, all the accused were responsible for the publication of insulting defamatory news in “The Tribune” on 5.12.1998 and 9.1.1999 and also in “The Hindustan Times” Newspapers on 9.1.1999. Upon these allegations, inquiry was conducted and the complaint was found false. Accused Jaswant Singh in his forwarding letter dated 23.6.1998 to Chairman Standing

Committee, Railways, New Delhi has alleged that the complainant has made embezzlement in the hospital store. All the allegations levelled by the accused person in the complaint were found false and on account of these false allegations, reputation of the complainant has gone down in the eyes of public, friends, relations and employees of the Railways. On account of defamatory allegations, he fell sick due to depression and remained sick on Railways Roll from 9.1.1999 till 25.8.2000. Thereafter, he was transferred from the post on 7.1.1999 and he could not join his duties at Ferozepur due to depression and sickness.

After recording preliminary evidence, accused were summoned to face the trial under Sections 120-B, 500 and 149, IPC and charges were framed.

During trial, the complainant examined PW-1, Parminder Kaur, Nursing Sister, who supported the version of the complainant and proved on record one affidavit dated 11.1.1999, Ex.PW3/C. Similarly, PW-2 Satnam Singh has also supported the version of the complainant and proved on record news published in Newspapers "The Tribune" dated 5.12.1998, Ex.P2, PW-3, Ramandeep Singh, Clerk, Railway Hospital has proved on record certified copy Ex.PW3/1 which contains medical report and fitness certificate of the complainant. PW-4, Gurcharan Dass, Office Superintendent proved on record the news item dated 5.12.1998, Ex.PW4/1. PW-5 Raj Kumar proved on record the attendance register of the hospital Ex.PW5/1 to Ex.PW5/14, duty distribution register Ex.PW5/15, copy

of TT Register Ex.PW5/17, letter dated 1.6.1998, Ex.PW5/18, copy of attendance Ex.PW5/19 and Ex.PW5/20, statement of Anjleena Ex.PW5/21, statement of Usha Joel, Varinder, Minhas and Harjinder Kaur Ex.PW5/22 to Ex.PW5/26, application dated 1.8.1998 Ex.PW5/27, statement of Dr.Yog Raj Ex. PW5/28, complaint dated 7.6.1997 and forwarding letter Ex.PW5/A endorsement. PW-6, Varinder Kaur has proved on record her signatures over the complaint Ex.PW5/20 along with signatures of Angleena, Usha, Harjinder Kaur and Minhas and she also identified her signatures over Ex.PW5/27. PW-7, Dr.Gian Chand Mangat, who deposed regarding the news item dated 9.1.1999 supported the version of the complainant regarding loss of his reputation. PW-8, Brij Mohan Zonal Secretary is also witness of news item dated 9.1.1999 and of telecast programme in T.V. dated 11.1.1999 and letter written dated 14.1.1999 Ex.PW8/A. PW-9, Dr. Yog Raj, complainant reiterated the version of his complaint and proved all the exhibited documents already exhibited in the statement of various witnesses. He also proved on record the news item dated 9.1.1999 Ex.PW7/1. Complainant tendered into evidence copy of order dated 23.06.2000 Ex.PXs and closed his evidence.

Statements of accused under Section 313 Cr.P.C. were recorded, wherein all the incriminating evidence against them were put to them, but they denied the same and pleaded innocence.

On the basis of evidence, learned trial court dismissed the complaint vide judgment dated 7.5.2010. Aggrieved against the

judgment dated 7.5.2010, appeal was filed by the appellant/complainant and the said appeal was also dismissed by the learned Addl.Sessions Judge, Kapurthala vide judgment dated 19.03.2013.

It is a settled law that the revisional jurisdiction is very limited unless perversity is established. Therefore, no interference is warranted. Any interference in the concurrent findings of fact recorded by both the courts below, especially when no perversity is established, is not warranted. Reference may be made to a judgment of Hon'ble Apex Court in a celebrated judgment of **Ghurey Lal** Vs. **State of U.P.** 2008 (10) SCC 450.

Case in hand, both the courts below have recorded finding of fact that it has nowhere been established that the respondents ever defamed the petitioner. The record reveals that Union Minister of States for Railways, has authority over the complainant to whom the complaint has been moved by the respondents and on this complaint, an inquiry was conducted and inquiry report Ex.DW3/A is already on the file. Finding of this enquiry report and their recommendation reads as under:-

“Although management of RCF was of the abusive harassment unleashed by Dr.Yog Raj amongst staff of the hospital, no action was taken or discipline Dr.Yog Raj under DAR rules and it further observed that Dr.Yog Raj is given to using foul and abusing language in the work place. While some staff members have taken this humiliating experience in their stride, there are

some other both male and female, who have reacted and justifiably so, rather sharply. No self respecting individual regardless of sex, colour or creed, can and should tolerate indecent and socially unacceptable language and terminology more particularly in the work place in the presence of other colleagues. Granted that officers and superiors have the authority to bring about discipline in the work environment. This, however, does not give licence to any officer to use foul and indecent language in the garb of disciplining errant staff. The discipline and appeal rules provide the guidelines to initiate disciplinary proceedings against staff having no resort to abusive language.”

Therefore, on the basis of inquiry report, it was found that complainant was found guilty of using abusive and foul language to the staff members and the committee further recommended his transfer and not to assign any administration dues and he requires counseling for his problems and attitude.

In this manner, it is the respondents who were found to be sufferer from the misbehavior and abusive language of the petitioner. It has been admitted by the complainant in his cross-examination about the various letters written against him regarding misbehavior with his colleagues. He has also admitted that Dr.Rani made a complaint against him regarding misbehavior.

Both the courts below have rightly held that in case the respondents complained to the seniors against the misbehavior and use of abusive language at the hands of complainant, it cannot be

said to be an offence committed under Section 500, IPC. Therefore, I find no merit in the revision petition, and the same is hereby, dismissed.

[Hari Pal Verma]
Judge

07.05.2015
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