

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-533 MA-2016(O&M)

Date of decision: 03.05.2016

Major N.K.Bakshi

.....Applicant

versus

Capt. Vinay Kumar Verma and another

.....Respondents

**CORAM: Hon'ble Mr.Justice Kuldip Singh**

Present: Mr.Sushil Jain, Advocate for the applicant

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

**Kuldip Singh, J. (Oral)**

CRM No.9080 of 2016

For the reasons mentioned in the application, it is allowed and 68 days delay in filing the application for grant of leave to appeal stands condoned.

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This order shall dispose of the application filed under Section 378(4) Cr.P.C. for grant of leave to appeal against the impugned order dated 28.10.2015, passed by learned Judicial Magistrate 1<sup>st</sup> Class, Sonapat, vide which the complaint of the complainant was dismissed.

Complainant Major N.K. Bakshi has filed a criminal complaint against Capt. Vinay Kumar Verma, Principal, Moti Lal

Nehru Sports School, Rai and Dr.Vipin Bhandari, Health Officer of the said school under Sections 166, 167, 217, 218, 219, 220, 120-B IPC. It is admitted fact that accused No.1 Capt. Vinay Kumar Verma is working as Principal, Moti Lal Nehru Sports School, Rai, whereas the complainant is working as Bursar (administrative officer) in the said school. The allegations against the principal, as pressed at the time of arguments, are as under:-

1. The principal illegally deleted the name of daughter of the complainant from U.K. exchange programme in the year 2007.
2. The principal served a charge sheet upon the complainant and allegedly, a junior officer was appointed to hold the inquiry.
3. The said junior officer is Dr.Vipin Bhandari-accused No.2 who in connivance with accused no.1 prepared a false inquiry report against the complainant.

Further allegations are that the charge sheet was issued with mala fide intention and after manipulating the documents.

I have heard learned counsel for the applicant and have also carefully gone through the file.

Though the learned Magistrate has dismissed the complaint on the ground that it is barred under Section 197 of Cr.P.C., but this Court finds that the complaint is otherwise liable to be dismissed, as the same is misuse of process of Court. Issuing of charge sheet by the competent authority can be challenged before the civil Court on the ground that a junior officer has been appointed as

an inquiry officer. The quashing of the charge sheet can also be sought on the ground that it is issued with mala fide intention. Therefore, issuing the charge sheet and appointing an inquiry officer, who according to the complainant, is junior to him, does not make out any criminal offence. Further, it was for the principal to select as to who is to be sent for U.K. exchange programme. Therefore, the name of the daughter of the complainant has been deleted in exercise of the powers by the principal and the same does not make out any criminal offence. It is apparent that on account of charge sheet being issued to the complainant, the present complaint has been filed under various Sections of Indian Penal Code. From the facts itself, no criminal offence is made out. Therefore, for the different reasons, this Court comes to the conclusion that the complaint was rightly dismissed by the learned Magistrate without passing the summoning orders. However, if the complainant is aggrieved that the charge sheet has been issued with mala fide intention and a junior officer has been appointed as inquiry officer, he can always challenge the same before the Civil Court.

No ground to interfere.

Hence, the application for grant of leave to appeal is dismissed.

**03.05.2016**  
*gk*

**(Kuldip Singh)**  
**Judge**