

116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-16055 of 2016 (O&M)
DECIDED ON: AUGUST 02, 2016

U.V. GUPTA

.....PETITIONER

VERSUS

URVASHI & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Anna Bansal, Advocate
for the petitioner.

JASPAL SINGH, J

CRM No. 22821 of 2016

Application is allowed, as prayed for.

Annexure P-8 is taken on record, subject to all just exceptions.

CRM No. M-16055 of 2016

By virtue of instant petition preferred under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.'), petitioner has sought the setting aside of order dated March 03, 2016 (Annexure P-7) passed by learned Additional Sessions Judge, Panchkula whereby, the summoning order passed by learned Judicial Magistrate Ist Class, Panchkula dated July 03, 2015 (Annexure P-6), has been set aside.

Briefly stated the facts of the case are, complainant filed a private complaint in the trial Court, levelling allegations against the respondents,

alleging that he purchased a share in Luxmi Cooperative Society, Sector 20, Panchkula (for short 'Society') in the year 2006. At the time of purchase of share by him in the Society, the building of the Society was not complete as the flats were yet to be constructed. After construction of the building of the Society, flat No. 108 was allotted to him in the Society. The rates of the flats were increased from ₹18,50,000/- to ₹31,50,000/-, which generated controversy between the complainant and the members of the Society including Vinay Aggarwal, on the members of the Society as the members of the Society were threatening him not to raise the issue of escalation in the prices of the flats and should not ask for account details of the Society. Due to threat and conduct of Vinay Aggarwal and his other associates, the complainant reported the matter to the police, upon which a case bearing FIR No.23, under Sections 420, 406 etc IPC was registered on April 18, 2012 at Police Station Sector 20, Panchkula. Ultimately, the said FIR was quashed on the basis of compromise. Despite the said compromise and withdrawal of the FIR all these persons had grudge against the complainant and started harassing and humiliating the complainant on various issues. Even, when the complainant was elected as Secretary of the Society, the other members who were President, Vice-President and Cashier under the influence of Vinay Aggarwal resigned from the Society and created hurdles in the smooth functioning of the Society.

While assailing the impugned order, it has been argued with vehemence by learned counsel for the petitioner that the same is absolutely against the evidence available on file and settled cannons of law, which is otherwise passed upon perverse appreciation of evidence and is fundamentally erroneous in law. After taking into consideration the entire evidence adduced

by the petitioner, the learned Magistrate summoned the respondents as an accused. While passing the impugned order, learned trial Court has completely ignored the letter dated January 03, 2014 written by Mrs. Raj Kumari Khanna, wherein, slanderous statements were made against the petitioner. Moreover, before summoning the accused, court has to see a *prima facie* evidence regarding the commission of alleged offence and it is not required to look into the fact whether it would be sufficient to prove the offence and subsequently suffice to conviction or not. Pros and cons of the matter are not to be commented upon, as has been done in the instant case by Revisional Court. Thus, the impugned order being against the evidence available on record and the legal proposition, deserves to be set aside, while upholding the summoning order passed by learned Magistrate.

This Court has given a deep thought to the submissions made by learned counsel for the petitioner but does not find any legal or factual substance.

No doubt, at the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint and the evidence led in support thereof. *Prima facie*, he has to satisfy himself to the question whether there are sufficient grounds for proceeding against the accused or not, on the basis of the averments made in the complaint and the preliminary evidence led in support thereof. Moreover, summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion.

Moreover, it is an admitted fact that prior to the filing of complaint,

FIR was already registered against him by the respondents. There is nothing on record to suggest that the complainant has been acquitted or discharged of the offences, complained of. The complaint is nothing but appears to be a counter blast to the FIR registered by the respondents against the complainant. Similarly, the other complaints lodged with the Assistant Registrar, Cooperative Society and Garrison Engineer were also not finally disposed of and have not so far been, found to be false. Not only this, even there is nothing on record to suggest that the news items were published at the instance of respondents, especially, in the circumstances neither Editor nor the Reporter of any such news paper has been summoned. If at all the accusation falls within the ambit of Section 499 IPC.

Thus, this Court does not find any illegality or impropriety in the impugned order dated March 03, 2016 passed by learned Additional Sessions Judge, Panchkula. Rather, this Court is of the considered view that the same is absolutely in consonance with the evidence as well as legal proposition of law applicable to the facts and circumstances of the case in hand.

In the light of what has been discussed above, instant petition being devoid of merits, is dismissed.

AUGUST 02, 2016
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(JASPAL SINGH)
JUDGE

<i>Whether</i>	<i>Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether</i>	<i>Reportable</i>	<i>Yes/No</i>