

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision-29.11.2016

1. CRM-M-35148-2016

Jai Pal

...Petitioner

Vs.

State of Haryana and another

...Respondents

2. CRM-M-35163-2016

Jai Pal

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sumit Gupta, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This judgment shall dispose of aforementioned two petitions filed under Section 482 of the Code of Criminal Procedure impugning the order dated 10.08.2016 passed by Additional Sessions Judge, Karnal vide which the revision filed by the accused against the summoning order dated 23.12.2013 passed by Judicial Magistrate First Class, Karnal was allowed and the revision filed by the complainant for summoning the accused under Sections 389, 511, 500, 506, 177, 193, 195, 196 and 203 of Indian Penal Code was dismissed.

The brief facts of the case are that petitioner filed a complaint under Sections 389, 511, 500, 506, 177, 193, 195, 196, 203 and 211 before

the Court of Judicial Magistrate First Class, Karnal. Vide order dated 23.12.2013, accused/respondent No.2 was summoned to face trial under Section 500 of Indian Penal Code (in short 'IPC'). As per the complainant Nathi Ram and his wife Kasturi Devi, the parents of the accused Zile Singh, own certain agricultural land in village Bedarpur, Karnal. The accused, Zile Singh had fraudulently procured collusive decree from Kasturi Devi. Kasturi Devi filed a civil suit to this effect against Zile Singh and Karan assailing the said collusive decree. It is stated that the said suit was dismissed in view of compromise between the parties wherein Zile Singh had promised that he will not create any hindrance in rest of the land in the name of his father Nathi Ram. Panchayat was also convened in this respect on 26.05.2016 wherein the complainant acted as "SALIS" and it was decided that the accused will not interfere or create any hindrance in the land of his father Nathi Ram and due to this accused became inimical towards the complainant and thereafter has falsely implicated the complainant and his own father Nathi Ram alongwith other persons in false cases.

Against the summoning order, the accused and the complainant filed separate revision petitions before the Court of Additional Sessions Judge, Karnal which were taken up together and the petitions filed by the accused-revisionist was accepted. Thus the present petitions under Section 482 of the Code of Criminal Procedure were filed assailing the order passed by the Court of Additional Session Judge, Karnal.

It has been observed by the trial Court that there is no sufficient evidence to summon the accused-respondent No.2 for the offences

punishable under Sections 389, 511, 506, 173, 193, 195, 196, 203 and 211 of IPC. The learned trial Court has summoned the accused only under Section 500 of IPC after recording that there is a civil dispute pending between the parties and otherwise also the accused has never used any defamatory language in writing or in publishing against the complainant which would tantamount to lowering the reputation of the complainant in the society. The case of the accused/respondent No.2 does not fall under any of the exceptions mentioned under Section 499 IPC.

In case of ***S.W.Palanitkar Vs. State of Bihar, 2001 (4) R.C.R.***

(Criminal) 572, Hon'ble the Supreme Court has held as under:-

“In a case of a complaint under Section 200 Cr.P.C or IPC a Magistrate can take cognizance of the offence made out and then has to examine the complainant and his witnesses, if any, to ascertain whether a prima facie case is made out against the accused to issue process so that the issue of process is prevented on a complaint which is either false or vexatious or intended only to harass. Such examination is provided in order to find out whether there is or not sufficient ground for proceeding. The words “sufficient ground” used under Section 203 have to be construed to mean the satisfaction that a prima facie case is made out against the accused and not sufficient ground for the purpose of convictions.”

Learned Additional Sessions Judge has categorically observed that no sufficient evidence could be noticed on record to summon the accused for offences under Section 389, 511, 500, 506, 177, 193, 195, 196 and 203 of IPC. Moreover, with regard to summoning the accused under Section 500 IPC, it was observed that apart from on-going civil dispute between the parties, there is nothing on record to attract the provisions of Section 499 IPC.

The learned counsel asserts that on the false complaint moved by the respondent No.2, the complainant was called/summoned to the Police Station leading to the harassment of the petitioner. However, the learned counsel has not been able to convince this Court as to how the impugned order suffers from any illegality or perversity.

Consequently, finding no merit therein, both petitions are dismissed.

November 29, 2016
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No