

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

**CRR No. 4632 of 2015
DATE OF DECISION: MAY 23, 2016**

RAVINDER KUMAR SULTANWIND

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether Reporters of local papers 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?**

Present: Ms. G.K. Mann, Advocate
for the petitioner.

JASPAL SINGH, J

By virtue of this revision petition, petitioner has challenged the order dated October 09, 2015 passed by learned Judicial Magistrate Ist Class, Amritsar whereby, a complaint moved under Section 307 and 343 IPC for summoning Dr. Dipesh Venktaram, Dr. Sumeet Singh, Dr. Jatinder Pal Singh and Dr. Sudesh Kumar (respondents No.2 to 5) to face trial has been dismissed.

2. Briefly, stated the fact giving rise to the instant *lis* are that on April 18, 2010, Inder Singh relative of Harjinder Singh approached the complainant to help him to free from the clutches of Dr. Santokh Singh, who was illegally demanding a sum of ₹15,000/-. Petitioner approached Dr. Santokh Singh and

contacted Harjinder Singh, some press reporters were also there at that time, who disclosed the petitioner that he was admitted in Ward of Dr. Santokh Singh on April 02, 2010. Though, for the last one week he is completely fine and feeling well but Dr. Santokh Singh is not discharging him and for that purpose he is demanding ₹15,000/- and also compelled him to purchase medicines from a Medical Store outside the hospital, inspite of the fact that medicines so prescribed are to be supplied from the hospital free of cost. However, with the efforts of complainant, Harjinder Singh was discharged and ultimately he was released from the illegal confinement of Dr. Santokh Singh. On April 23, 2010 a complaint was also moved to the higher authorities in this regard. In pursuance of which three members committee was constituted to inquire into the charges of corruption. Complainant was also appeared before the committee on May 28, 2010 and got his statement recorded in the presence of Dr. Santokh Singh. When the petitioner returned after getting his statement recorded, Dr. Shiv Charan in conspiracy with Dr. Santokh Singh heard abuses and manhandled the petitioner. He was also extended threats to his life for giving statement against Dr. Santokh Singh. Apprehending danger petitioner ran inside the committee room. Dr. Shiv Charan throttled hard the neck of the petitioner in order to eliminate him. In the presence of committee members, Dr. Shiv Charan and his associates Dr. Dipesh Venktaram, Sumeet Singh, Jatinder Pal Singh and Sudesh Kumar gave severe beatings.

3. The contention of learned counsel for the petitioner is that despite the fact that names of the respondents No. 2 to 7 figured in the complaint and a specific role has been attributed to them, learned Magistrate has dismissed

the complaint under Section 307 and 343 IPC qua respondents No.2 to 5 i.e. Dr. Dipesh Venktaram, Dr. Sumeet Singh, Dr. Jatinder Pal Singh and Dr. Sudesh Kumar whereas, the complaint has been dismissed in its entirety qua all the accused.

4. The evidence brought on record by the petitioner before the Magistrate is absolutely unrebutted and unchallenged and it is well settled that at the time of summoning of a person as an accused only *prima-facie* case is to be seen and further that if the allegations are found to be false at subsequent stage, the Court is competent to initiate proceedings against the complainant for giving false evidence. But instead of taking into consideration the above-stated legal aspect, learned Magistrate has dismissed the complaint qua respondents No.2 to 5.

5. This court has given an anxious thought to the various submissions made by learned counsel for the petitioner but find the same to be without any legal substance.

6. Before dealing with the instant petition on merits, it would be appropriate to mention that summoning of a person as an accused 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. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that

the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.

7. Now adverting to the facts of the case in hand, there is a bald assertion of complainant that on April 02, 2010, petitioner was admitted in Ward of Dr. Santokh Singh. Though, for the last one week, he is completely fine and feeling well but Dr. Santokh Singh is not discharging him and for that purpose he is demanding ₹15,000/- and also compelled him to purchase medicines from a Medical Store outside the hospital, inspite of the fact that medicines so prescribed are to be supplied from the hospital free of cost. However, with the efforts of complainant, Harjinder Singh was discharged and ultimately, he was released from the illegal confinement of Dr. Santokh Singh. On the basis of complaint lodged by the petitioner, a committee was constituted to inquire into the allegations of corruption against Dr. Santokh Singh and his associates. When the petitioner returned after getting his statement recorded, Dr. Shiv Charan in conspiracy with Dr. Santokh Singh heard abuses and manhandled with him. He was also extended threats to his life for giving statement against Dr. Santokh Singh. He was given severe beatings by Dr. Shiv Charan and his associates. But to the utter surprise there is no cogent and convincing evidence available on file, especially with regard to the role of persons which have been sought to be summoned through complaint except Dr. Santokh Singh. There is no medical evidence either to

attract Section 307 or 343 IPC. It is not an intention of law that a person be summoned as an accused just on a bald assertion, which does not find any corroboration from the medical or any other sort of evidence. There is nothing on record to suggest at this stage that offence under Section 307 and 343 IPC is attracted, even if the allegations levelled by the petitioner are taken on its face value.

8. At the time of issuance of notice, the Court is competent to take into consideration all the aspects and if there is *prima facie* evidence only then the process is to be issued. In the case in hand, impugned order dated September 09, 2015 is absolutely legal and justified and calls for no interference by this Court.

9. In the light of what has been discussed above, this Court does not find any merit in the instant revision petition. Accordingly, instant revision petition is dismissed and impugned order dated September 09, 2015 is upheld.

MAY 23, 2016
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(JASPAL SINGH)
JUDGE