

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1751-MA-2015 (O&M)

Date of decision: 13.12.2017

Jagdish Dass

... Appellant

Vs.

Amarjit Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rajesh Bhatheja, Advocate
for the appellant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this appeal is to set aside the judgment dated 25.08.2015 vide which the trial Court has dismissed has complaint filed by the appellant-complainant.

Brief facts of the case are that the appellant Jagdish Dass filed a criminal complaint under Sections 500/506/406 of the Indian Penal Code ('IPC' for short) against his mother Amarjit Kaur. It was alleged in the complaint that the complainant is resident of Dera Baba Luthria, Jaurian Bhatian, Patiala and is a Mahant/Mohitmim and Manager/owner of the property attached with the Dera. The accused Amarjit Kaur is mother of the appellant and earlier she was residing jointly with the complainant in the Dera. On 16.06.2003, accused starting residing separately in the Dera under the licence of the complainant, which was later on terminated due to ill-acts of his father Bhupinder Singh and

accused Amarjit Kaur. It was further alleged that the parents of the complainant, in connivance with other persons, wanted to encroach upon the land of the Dera and they were not his well-wishers. There was a litigation regarding the Dera land between one Bhagwant Singh and complainant. The complainant filed a suit for possession by way of mandatory injunction of the portion, which was in possession of his father and mother, as a licensee. It was alleged in the suit that the accused has no right to recover the rent or park their vehicle near residence of the appellant-complainant.

It was further alleged that Bhupinder Singh died on 10.10.2008 and accused started residing with her daughters at Barnala and locked the premises in her possession. The accused Amarjit Kaur, in order to falsely implicate the complainant, regarding the death of his father Bhupinder Singh, levelled allegations in a complaint filed with the police that the appellant-complainant killed his father, whereas as per the record of Rajindera Hospital, Patiala, he died due to heart attack. The police investigated the complaint and found the same to be false. Again, respondent moved two applications to SSP, Patiala with similar allegations and these complaints were also inquired into and were found to be false. It was also alleged in the complaint that complainant is a habitual drinker and is addicted to consumption of alcohol and there were certain allegations regarding the sale of property of Dera, whereas he has never sold such property. It was further stated that in those police proceedings, calendra under Section 182 Cr.P.C. against the appellant was presented and he was discharged by the Court. With the abovesaid allegations, it was stated that the complainant has suffered a great setback, as the complaints levelling false allegations against the appellant-complainant amounted to amputation of

reputation and defamation in the society, friends and relatives as well as followers of the Dera.

The complainant in pre-charge evidence examined 07 witnesses including himself and tendered into evidence, a Histopathology report of the Rajindera Hospital, Patiala to prove that father of the complainant died on account of heart attack and closed his pre-charge evidence. Thereafter, at the time of framing of charge, the trial Court discharged the respondent-accused. Hence the present appeal has been filed.

Counsel for the appellant submits that it is proved from the statement of CW2 complainant who has duly supported the facts of the complaint and from the statement of CW3 Mahant Parinder Dass, who stated that due to moving of the false allegations, reputation of the complainant is lowered in the eyes of other people of the society.

After hearing learned counsel for the appellant, I find no merit in the present appeal. The mere fact that the complainant has appeared in an investigation conducted by SSP, Patiala, in pursuance to the complaints Ex.CW5/A and Ex.CW5/B filed by his mother Amarjit Kaur raising a suspicion that the death of her husband i.e. father of the appellant Bhupinder Singh, was unnatural, in no manner attract or constitute the offence under Sections 500/506 IPC.

The trial Court has recorded a finding that as per 8th exception of Section 499 IPC, it is obligatory on the part of the complainant to prove that the complaints made by his mother Amarjit Kaur were not in good faith and from the perusal of the complaints, it is not proved that the same were not moved in good faith. The pendency of earlier litigation i.e. a suit for mandatory injunction

filed by the appellant-complainant against his parents, does not prove the malafide intention on the part of the accused to harass the complainant.

The trial Court has also recorded a finding that neither the accused has published or defamed the complainant in public view and only on the basis of complaints made to the police, in view of exception (viii) of Section 499 IPC, accusation made by the mother of the complainant, in good faith, does not amount to defamation.

Accordingly, the present appeal is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

13.12.2017
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No