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

**CRM-M-43326-2017**

**Date of Decision:- 17.11.2017**

Gurdeep Singh .... Petitioner

Versus

Chamkaur Singh and others .... Respondents

**CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN**

Present: Mr. Harnam Singh Bhullar, Advocate,  
for the petitioner.

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**SHEKHER DHAWAN, J.**

Present petition under Section 482 of Code of Criminal Procedure (for short "the Code") is for quashing of Complaint No.54 dated 31.05.2013 (Annexure P/1) titled **Chamkaur Singh and others Vs. Jagjit Kaur and others**, under Sections 409, 406, 420, 467, 468, 471 read with Section 120-B IPC along with all consequential proceedings and the impugned order, dated 10.07.2017 (Annexure P/2) passed by learned Additional Chief Judicial Magistrate, Moga summoning the present petitioner alongwith others.

2. Learned counsel for the petitioner contended that the complaint, Annexure P/1 and the summoning order, Annexure P/2 are misuse of the process of law and the same be quashed while invoking the inherent

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powers under Section 482 of the Code as no offence is made out against the present petitioner because there is no allegation of any overt act of omission or commission against him nor there is any reference to any evidence to connect the petitioner with the commission of offence in any manner. Even the name of the petitioner is not figured any where in the complaint except in the array of accused.

3. Having considered the matter in its entirety, this Court is of the considered view that as regards to the maintainability of the petition, though, there is no limit on the powers of the Court under Section 482 of the Code, but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings should be exercised very sparingly in the rarest of rare cases. Such a view was taken by Hon`ble Apex Court in **Madhu Limaye Vs. The State of Maharashtra, AIR 1978 SC 47**, wherein Hon`ble Supreme Court observed as under:-

“9. At the outset the following principles may be noticed in relation to the exercise of the inherent power of the High Court which have been followed ordinarily and generally, almost invariably, barring a few exceptions :-

- (1) That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party ;
- (2) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;
- (3) That it should not be exercised as against the express bar of law engrafted in any other provision of the Code.”

4. It is established that the Court must apply the test as to whether the uncontroverted allegations as made out from the record of the case

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and the documents submitted thereon establish the offence or not. If the Court has to observe that the matter requires examination of evidence and material on record to determine whether there is sufficient material on the basis of which, the case would end in a conviction, the Court is concerned primarily with the allegations taken as a whole whether they would constitute an offence and if so, is it an abuse of the process of Court leading to injustice. If full-fledged enquiry is required to appreciate the evidence collected, then powers under Section 482 of the Code should not be exercised and the in the present case, no case is made out to quash the proceedings.

5. In view the above, the present petition under Section 482 Cr.P.C., is without any merit and the same is not maintainable and stands dismissed as such. However, the petitioner shall be at liberty to avail alternative remedy as available under the law.

**November 17<sup>th</sup>,2017**  
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**( SHEKHER DHAWAN )**  
**JUDGE**

Speaking/Reasoned  
Reportable

Yes  
Yes