

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

(i) CRM No.M-44923 of 2016 (O&M)

Deepika

...Petitioner

VERSUS

State of Haryana and another

...Respondents

(ii) CRM No.M-45604 of 2016 (O&M)

V.K.Kapoor

...Petitioner

VERSUS

Aruna Rani Trehan and others

...Respondents

Date of Decision: July 25, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Bhaskar Sharma, Advocate
for the petitioner (in CRM No.M-44923 of 2016).

Mr.Sumit Gupta, Advocate
for the petitioner (in CRM No.M-45604 of 2016) and
for respondent No.2 (in CRM No.M-44923 of 2016).

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together as the
same have arisen from same complaint.

Petitioner Deepika has filed CRM No.M-44923 of 2016 under

Section 482 Cr.P.C. for quashing complaint case No.1068/2013 dated

27.04.2013, summoning order dated 17.08.2015 passed by learned JMIC, Panchkula and all subsequent proceedings arising thereof.

Petitioner V.K.Kapoor has filed CRM No.M-45604 of 2016 under Section 482 Cr.P.C. for setting aside/modifying the order dated 17.08.2015 passed by learned JMIC, Panchkula, vide which accused-Deepika was summoned and respondents No.2 to 7 were discharged and order dated 15.09.2016 passed by learned Addl. Sessions Judge, Panchkula, vide which the revision petition filed by the petitioner was dismissed.

Notice of motion was issued in CRM No.M-44923 of 2016. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the record shows that V.K.Kapoor complainant filed a complaint against Deepika, his daughter-in-law, Aruna Rani Trehan, Ashok Kumar Trehan, parents of Deepika and others under Sections 190(1) (a) Cr.P.C. for commission of offences under Sections 500 and 504 IPC. Learned JMIC, Panchkula, vide order dated 17.08.2015, summoned the accused Deepika under Section 500 IPC and has not summoned other accused. A revision was filed by Deepika against the summoning order, which was dismissed by learned Addl. Sessions Judge, Panchkula, vide order dated 15.09.2016 and upheld the summoning order. Complainant V.K.Kapoor also filed a revision against summoning order for summoning other accused, which was also dismissed by learned Addl. Sessions Judge, Panchkula, vide above-said same order dated 15.09.2016.

Aggrieved from the above-said orders, both the petitions have

been filed by the petitioners.

From the perusal of the record, I find that allegations in that complaint are that Deepika is the divorced wife of son of the complainant namely Puneet Kapoor and accused No.2 is mother of Deepika. The complainant has retired as Class-I officer from the Haryana Government. As per the allegations in the complaint, accused No.2 Aruna Rani Trehan made a written complaint dated 21.06.2011 to the Commissioner of Police, Amritsar, which is typed complaint and that complaint contains numerous false and frivolous allegations against the complainant V.K.Kapoor and his other family members. The said allegations are defamatory and insulting in nature, due to which the fame and reputation of the complainant has been lowered in the eyes of family, friends, society and general public.

Learned JMIC, Panchkula, after discussing the evidence and law held that filing of the complaint to a competent authority does not amount to publication of defamatory material. The findings given by learned Magistrate as well as learned Addl. Sessions Judge, Panchkula in the revision are correct. Aruna Rani Trehan made a complaint qua her grievance to the competent authority and has availed her legal right. One of the necessary ingredient for proving defamation is that defamatory material has been published with the intention to lower the reputation of the complainant in the eyes of general public but when the complaint is filed to the competent authority, then, in no way, it amounts to publication of defamatory material. Therefore, Aruna Rani Trehan has not been summoned by learned Magistrate as per law. Nothing argued qua other accused.

that she gave interview to news channels etc. which was telecasted on the television. The CD has also been attached with the complaint.

Learned counsel for petitioner Deepika argued that on the same allegations levelled by Deepika, a complaint was filed and complainant V.K.Kapoor has been summoned. Therefore, he argued that complaint filed by V.K.Kapoor is counter blast.

At this stage of summoning, the Court is only to see whether there are sufficient grounds to proceed further against the accused. The allegations levelled by Deepika against V.K.Kapoor are under Section 376 IPC and giving of interview to the news channels, amounts to publication of defamatory material. It is still to be proved by Deepika by bringing evidence before the trial Court that these allegations are correct and true. At this stage, without any evidence produced by the complainant, it cannot be held that the allegations levelled by Deepika are true. The trial Court is to decide these facts on the basis of the evidence. In no way, it can be held that complaint filed by V.K.Kapoor is abuse of process of law.

Therefore, finding no merit in both the petitions, the same are dismissed.

July 25, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No