

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

Crl. Misc. No.M-10545 of 2015

Date of Decision:- 12.11.2018

Avtar Kaur

....Petitioner

vs.

Gurjit Kaur

....Respondent

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Rakesh Chopra, Advocate,
for the petitioner.

Mr. S.S. Siao, Advocate,
for the respondent.

Sudhir Mittal, J. (Oral)

The petitioner is the sister-in-law of the respondent (wife of elder brother of husband of the respondent). She seeks quashing of complaint No.50-T dated 13.10.2018 filed under Sections 499/500/501/148/149 of Indian Penal Code (Annexure P-1) as well as summoning order dated 6.4.2013 (Annexure P-2).

As per the complaint, the petitioner and her co-accused allegedly published in the village that the respondent-complainant is a lady of loose character.

Learned counsel for the petitioner submits that on account of a matrimonial dispute between the respondent and her husband, a complaint under Sections 498-A and 406 IPC was made to the concerned police station. The petitioner was also named as an accused therein. She was called to the police station and her statement was recorded, a copy of which has been placed on record as Annexure P-7. A perusal of the said statement shows that there is no allegation regarding the character of the respondent. Further, the statement was made before

the Police and the same cannot be construed to be a publication to the general public or residents of the village. Thus, the summoning of the petitioner for offence under Sections 499 and 500 IPC is illegal as even prima facie, the allegations made in the complaint do not reveal any offence by the petitioner under the aforementioned sections. It also amounts to a gross abuse of the process of law.

Learned counsel for the respondent states that the statement (Annexure P-7) clearly shows that allegations have been made against the character of the respondent and, therefore, the petitioner has been correctly summoned.

The relevant line from the statement Annexure P-7 is reproduced below:-

“Since we have living separately from Surjit Singh, and as such we could not enquire about the character of Gurjit Kaur.”

This is a true translation of the statement recorded in Gurmukhi language and I have read the same as well. In the statement in Gurmukhi language, the expression used is '*Chal Chalan*' and the same has been translated as '*Character*'. To me, this expression only conveys that the author of the statement could not make any enquiries about the nature and antecedents of the respondent.

Thus, no allegation about the respondent being of loose character has ever been made by the petitioner. In any case, the statement was made by the petitioner before the police authorities and the same cannot amount to publication before the public at large. The complainant-respondent has mentioned in para No.8 of the complaint that she read the statement in presence of some villagers which led to the publication of the said statement in the entire village. The publication, if any, was thus made by the respondent herself.

In view of the above, the filing of the complaint (Annexure P-1) as well as issuance of summoning order dated 6.4.2013 (Annexure P-2) is a sheer abuse of the process of the Court and cannot be sustained.

The petition is accordingly allowed and complaint case No.50-T dated 13.10.2018, under Sections 499/500/501/148/149 of Indian Penal Code (45 of 1860) (Annexure P-1) pending before the learned Judicial Magistrate, Ist Class, Fatehgarh Sahib as well as summoning order dated 6.4.2013 (Annexure P-2) passed thereon along with consequential proceedings having arisen therefrom, are hereby quashed

November 12, 2018
poonam

(SUDHIR MITTAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes