

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-28961-2016

Date of decision : 12.2.2018

Subhash Chander

... Petitioner

VERSUS

Dharampal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. B.S.Rathee, Advocate,
for the petitioner.

RAJ SHEKHAR ATTRI, J.(Oral)

This is a petition under Section 482 Code of Criminal Procedure for quashing order dated 7.8.2015 (P-1) passed by Judicial Magistrate, 1st Class, Panipat vide which a complaint under Sections 499, 500, 506, 34 IPC filed by the present petitioner was dismissed; and order of the revisional court dated 30.4.2016 (P-2) vide which the revision filed by him was also dismissed.

The facts necessary for disposal of the present revision petition are that the petitioner was working as Video Technician & Cinema Operator in Information and Public Relations Department, Haryana. Thus, he was a public servant.

A complaint (Annexure P-3) was submitted by numerous villagers with regard to the conduct of the petitioner. It is specifically alleged that the petitioner used to visit the village in drunkard condition and he made hell the life of the villagers ; he used to abuse the villagers in drunkard condition. On these allegations, the villagers sought the transfer of

the petitioner.

In pursuance of complaint (Annexure P-3), transfer order dated 8.9.2011 (Annexure P-5) was issued, vide which, the petitioner was transferred from Panipat to Faridabad. However, sarpanch of Gram Panchayat, Ahar, District Panipat submitted an application that the petitioner is a good person having good conduct and his transfer be cancelled. In pursuance of this, transfer of the petitioner was cancelled vide order dated 10.10.2011 (Annexure P-7). Thereafter, the petitioner filed a criminal complaint against 22 persons (all respondents herein) alleging that they had given application to Chief Minister and that amounts to defamation.

After recording preliminary evidence, the said complaint was dismissed by the learned Magistrate. The petitioner preferred Revision Petition No.64 of 2015 before learned Sessions Judge, Panipat which was dismissed by learned Sessions Judge, Panipat vide order dated 30.4.2016.

I have heard the learned counsel for the petitioner and have gone through the material available on record.

Undisputedly, the petitioner is a public servant and his conduct is subject to criticism by the public.

Section Exception to Section 499 of Indian Penal Code protects the public for criticising the conduct of a public servant in good faith. The same reads as under : -

“Second Exception—Public Conduct of public servants—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.”

Thus, a bare perusal of the above said provision transpires that in order to express, in good faith, any opinion whatever respecting the conduct of a public servant in the discharge of his public functions or respecting his character, so far as the character appears in that conduct is not defamation.

The villagers had sought the transfer of the petitioner on the ground that he has been abusing them and used to drink during duty hours. To the mind of this Court, the accusation was for the sole purpose to get his transfer from Panipat on the ground that the petitioner has been insulting and abusing the villagers under the influence of alcohol. Thus, the allegations levelled in the complaint (Annexure P-3) are protected under second exception attached to Section 499 of Indian Penal Code.

On an independent appraisal of impugned orders, this Court is of the considered opinion that no case is made out to interfere therein. None of the orders suffer from irregularity, infirmity and as such, this petition is dismissed.

February 12, 2018
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No