

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

CRM-M No. 33191 of 2018

DATE OF DECISION :- August 08, 2018

Aman Mahajan

...Petitioner

Versus

State of Union Territory, Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

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

By way of filing the present petition under Section 482 Cr.P.C. petitioner Aman Mahajan seeks quashing of order dated 8.2.2017 passed by Judicial Magistrate 1st Class Chandigarh in case titled as “State of U.T. Versus Aman Mahajan” framing charge for offences under Sections 419, 465 IPC in F.I.R. No. 42 dated 14.3.2014 for offences under Sections 419/312/ 315 IPC at Police Station Sector 19, Chandigarh and challan dated 20.8.2016 presented against petitioner under Section 419 and 465 IPC as well as order dated 9.5.2018 passed by Additional Sessions Judge, Chandigarh vide which Criminal Revision Petition filed by the petitioner challenging order dated 8.2.2017 was dismissed and charge for offences under Section 419 and 465 IPC were maintained.

Interalia in the petition it is contended that petitioner Aman Mahajan was married with Poonam-respondent no. 2 in the petition on

27.1.1999, however, with the passage of time their relations became strained. Poonam Mahajan lodged F.I.R. no. 42 dated 14.3.2014 for offences under Sections 312, 315 419 IPC with Police Station Sector 19, Chandigarh. After completion of investigation challan against the accused was filed in the Court of Judicial Magistrate, 1st Class, Chandigarh for offences under Sections 419, 465 IPC, whereas offences under Sections 312, 315 IPC were not made out. That on presentation of challan charge for offences under Section 419, 465 IPC was framed against the accused on 8.2.2017.

The petitioner as well as respondent no. 2 felt aggrieved by the order framing charge as such they filed Revision Petitions before the Court of Sessions which were assigned to Additional Sessions Judge, Chandigarh. The Revision Petition filed by the petitioner was dismissed by Additional Sessions Judge, Chandigarh vide order dated 9.5.2018. Revision Petition filed by respondent no. 2 was also dismissed. According to the petitioner earlier one Shweta Sharma had filed a false and frivolous complaint against him on the basis of which respondent no. 2 had filed an F.I.R. No. 124 dated 18.10.2011 under Sections 498A, 323, 497, 506, 120B IPC registered at Police Station Sector 14, Panchkula. Trial in the said F.I.R. has got started in the Court of JMJC Panchkula.

During examination-in-chief and cross examination of Shweta Sharma she stated that she had nothing to do with the complaint which was filed under her signatures and she did not even read contents of the complaint submitted under her signatures and that respondent no. 2 had convinced her to file the complaint under her signatures to save matrimonial

life of respondent no. 2. Shweta Sharma had even made a statement before the police stating that she had made the complaint under undue influence and threat of respondent no. 2 and there after she got to know the truth, she withdrew her complaint and that the allegations made in the complaint filed by her are absolutely baseless. The petitioner while challenging the impugned order passed by Judicial Magistrate 1st Class, Chandigarh submits that he has not taken into consideration the fact that respondent no.2, who had got registered F.I.R. No. 42 dated 14.3.2014 is not a concerned party. Respondent no. 2 is a complete stranger , therefore, the very registration of the F.I.R. No. 42 and subsequent proceedings are illegal and invalid, unjustified and unsustainable.

I have heard learned counsel for the petitioner besides going through the record.

The entire approach of the petitioner is erroneous. It is a settled principle of criminal law that criminal machinery can be set into motion by any person and locus standi does not have much relevance in such type of proceedings. In the event of any offence having been committed any person can report regarding commission of such offence to the law and enforcement agencies. Similarly if a person aggrieved by the offence does not opt to report the matter to law and enforcement agencies does not mean that commission of such offence cannot be disclosed or reported by some other person who might not have directly affected by the said offence. Whole thrust of the arguments of learned counsel for the petitioner has been that Shweta Sharma had made a complaint under undue influence and threat of respondent no. 2, which she had subsequently withdrawn. It is a matter of

evidence whether the complaint was made by Shweta Sharma under undue influence and threat or voluntarily, therefore, framing of charge for offences under Section 419 and 465 IPC cannot be faulted. Such order passed by the trial Magistrate has been upheld by learned Additional Sessions Judge, who had disposed of the Revision Petition. The relevant part of the order is appended in para no. 6 is reproduced for ready reference :-

“The grouse of Aman Mahajan is that no charge under Sections 419 and 465 of IPC framed against him are made out against him. On the other hand, Poonam Mahajan claimed that charge sheet be amended and charges under Section 312, 313, 314, 315 and 468 read with Section 201 IPC be also framed against the accused. The challan has been presented against the accused under Section 419 and 465 IPC. Learned Magistrate while taking cognizance of the offence framed the charges. It is to be noted that the evidence and the material brought on record is not be meticulously judged at the time of framing of charge. On the strength of the above said well settled legal position, there is no hindrance or hardship to come to a right conclusion that prima facie case has been made out against the accused Aman Mahajan to frame the charge on the basis of allegations levelled by the prosecution. The Court is required to consider the police report filed under Section 173 Cr.P.C. and in case there are sufficient grounds against the petitioner Aman Mahajan having committed the offence, it can be said that prima facie there are sufficient ingredients for which the charge under Sections 419 and 465 IPC was framed against him. It is well settled that charge can be framed/amended at any stage, even after leading the evidence by the prosecution. At this stage, no illegality or infirmity in the impugned order passed by the learned Magistrate while framing charge against the accused has been pointed out.”

Chapter 19 of Cr.P.C. deals with trial of warrant cases by Magistrates. Section 239 Cr.P.C. deals with an eventuality when an accused shall be discharged. It provides that if upon considering the police report and documents sent with it under Section 173 Cr.P.C. and making such examination, if any of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity considers the charge to be groundless he shall discharge the accused and record his reasons for so doing whereas Section 240 Cr.P.C. deals with framing of charge directing that if on such consideration, examination if any and hearing, the Magistrate is of the opinion that there is ground for assuming that the accused has committed an offence triable under this chapter which such Magistrate is competent to try and which under his influence could be adequately punished by him, he shall frame in writing a charge against the accused. The Magistrate at the stage of framing charge is not to see as to whether the trial shall end in conviction or acquittal. He is just to satisfy himself that sufficient material is there on the record for presuming that accused had committed an offence. As per settled law the charge can be framed on the basis of strong suspicion even. Section 482 Cr.P.C. deals with saving of inherent powers of High Court. It provides that nothing in the Court shall be deemed to limit or effect the inherent powers of High Court to make such orders as may be necessary to give effect to any order under this Court or to prevent abuse of process of any Court or otherwise to secure the ends of justice. The law is well settled that while exercising such jurisdiction High Court is not to enter into probe regarding authenticity and legality of the evidence available on record. Here I do not find that the

orders passed by the Courts below suffers from any such illegality, infirmity or rather perverse or passed against settled principles of criminal law or passed by the Courts acceding from jurisdiction amounting to abuse of process of Court. Therefore, no interference there with while exercising jurisdiction under Section 482 Cr.P.C. is called for. Similarly challan has been filed on completion of investigation and I do not find any reason to quash the same. The petition is found to be without any merit and is dismissed accordingly.

(H.S. MADAAN)
JUDGE

August 08, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No