

CRM-M-33532 of 2015

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

CRM-M-33532 of 2015
Date of Decision: 10.09.2018

Tarsem Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Kewal Singh, Advocate, for the petitioner.
Mr. Davinder Bir Singh, DAG, Punjab.
Mr. P.S. Punia, Advocate, for respondent No.2.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., petitioner has laid challenge to order dated 28.08.2015 (Annexure P-8), whereby he has been summoned under Section 500 IPC and for quashing complaint filed by respondent No.2 against him.

In nutshell, some issue arose in between petitioner and respondent No.2 while their posting in Police Station at Salem Tabri, District Ludhiana, in which petitioner felt insulted. Consequently, he served legal notice dated 06.05.2015 (Annexure P-6) upon respondent No.2 and his some other colleagues under Section 80 of the Code of Civil Procedure which is a condition precedent to file a suit for damages.

After receipt of said notice, respondent No.2 filed the impugned complaint (Annexure P-7) under Section 500 IPC against petitioner on the allegations that after reading the contents of legal notice sent by the petitioner to him, he got perplexed and stunned. Therefore, from his face expression and reading the contents of the notice lying on the table, Sub Inspector Harbahjan

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present in the Police Station came to know about serious allegations levelled by the petitioner in his legal notice dated 06.05.2015 (Annexure P-6) against him, which had lowered down his reputation and dignity seriously in the eyes of his subordinates and general public.

With these broad allegations, respondent No.2 filed a complaint under Sections 500 and 503 IPC against the petitioner. Trial Court after recording preliminary evidence, summoned petitioner under Section 500 IPC.

Learned counsel for the petitioner *inter alia* contends that trial Court failed to appreciate that serving of notice under Section 80 CPC is a condition precedent for filing a civil suit for damages against any person. Therefore, serving such notice (Annexure P-6) by the petitioner on respondent No.2 by any stretch of imagination cannot be termed as defamatory to the reputation of respondent No.2.

On the other hand, learned counsel for respondent No.2-complainant pleaded the validity of impugned order.

Having considered the submissions made by both the sides, this Court finds merit in the instant petition for the reasons to follow.

Serving of notice under Section 80 CPC is legal right of a person before filing a civil suit. Therefore, in case, petitioner had served legal notice (Annexure P-6) under Section 80 CPC upon respondent No.2, it does not amount to intimidating his reputation. Two, out of four witnesses, cited by respondent No.2, amongst whom his prestige and reputation has allegedly been lowered down, are sub-ordinate to him. Therefore, they are not independent or public witnesses. Their statements may not be worth-reliance inasmuch as they are duty-bound to depose in favour of respondent No.2. Otherwise they may be liable to be punished for insubordination. Presence of Sham Lal Ex-M.C. and Kamaljit Sandhu, a public person in the Police Station at the alleged time and place is doubtful inasmuch as it is not mentioned in the complaint as to for what purpose they had

visited the police station.

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Considering the entire facts on record, it cannot be said that petitioner by serving notice under Section 80 CPC upon respondent No.2 has defamed his reputation and thus is liable for prosecution under Section 500 IPC.

In view of above, impugned complaint and the summoning order against the petitioner are quashed.

Disposed of.

September 10, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No