

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35218 of 2015 (O&M)

Date of Decision: 12.07.2018

Khanda Singh and others

...Petitioners

VERSUS

Inderjit Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Avnish Mittal, Advocate
for the petitioner.

Mr. Sehaj Bir Singh, Advocate
for the respondent.

SURINDER GUPTA, J.(Oral)

This is petition filed by petitioners under Section 482 Cr.P.C. seeking quashing of order dated 07.08.2015 (Annexure P-1) passed by Additional Sessions Judge, Ferozepur vide which criminal revision filed by petitioners has been dismissed as well as quashing of criminal complaint no. 431-1 of 31.03.2010 titled as “Inderjit Singh vs. Khanda Singh and others” filed under Section 420/467/468/ IPC and summoning order dated 25.11.2011 passed by learned Judicial Magistrate Ist Class, Jalalabad (West), whereby petitioners have been summoned under Sections 465/467/471 IPC.

As per allegations in the complaint, during proceedings before Assistant Collector Grade-II, Guruharsahai in case titled “Khanda Singh and others vs. Major Singh”, petitioners have got recorded statements of Jeet Singh, Sucha Singh, Wazir Singh and Pala Singh. In fact aforesaid persons have not appeared before Assistant Collector and petitioners have produced

Singh and Pala Singh.

On the basis of allegations in complaint, which were corroborated by Jeet Singh and Sucha Singh while appearing as CW-1 and CW-2 respectively during preliminary evidence learned Magistrate, Jalalabad summoned petitioners to face trial for offences punishable under Sections 465/468 and 471 IPC.

In revision against order passed by learned Judicial Magistrate, petitioners raised the issue of maintainability of complaint and learned Additional Sessions Judge, Ferozepur while disposing of the revision held that provisions of Section 195 Cr.P.C. are applicable to facts in complaint but dismissed the revision with observation that despite provisions of Section 195 Cr.P.C., complainant, who is a victim, cannot be barred by provisions of Section 195 Cr.P.C. from filing this complaint, however, liberty was given to petitioners to raise this issue at the time of framing of charge.

As per provisions of Section 195 Cr.P.C., no court shall take cognizance of offence prescribed under Section 463 IPC punishable under Section 471/475 or Section 476 IPC, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding or in a court.

Allegation of complainant-respondent is that petitioners in order to have adverse order against him from Assistant Collector Ist Grade, produced impersonators in place of Jeet Singh and Sucha Singh.

Section 463 IPC defines forgery and Section 465 IPC prescribes punishment for forgery. Sections 468 and 471 IPC are attracted when a document is forged for the purpose of cheating and if such forged

document is used as genuine.

Once the Court of Revision below has reached this conclusion that provisions of Section 195 Cr.P.C. are applicable to facts of present case, there was no reason to hold that complaint filed by respondent is maintainable. Learned counsel for respondent, when confronted with this legal proposition, fairly concedes that provisions of Section 195 Cr.P.C. are applicable and complaint filed by respondent was not maintainable. He, however, requests that respondent may be allowed to avail other remedy available to him before the authorities concerned.

In view of above, this petition is allowed. Complaint alongwith all other orders passed in this case are quashed with liberty to respondent to avail other legal remedies available to him under the law.

July 12, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***