

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

CRM-M-41198-2017

Date of decision:-18.1.2018

Suresh Kumar and others

...Petitioners

Versus

Dharampal Gautam

...Respondent

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

Present : Mr.S.P.S. Sidhu, Advocate
for the petitioners.

H.S. MADAAN, J.

By way of moving the present petition, the petitioners – Suresh Kumar, Ravita Devi, Subhash, Ramesh, Vinod Kumar and Jai Kishan seek quashing of complaint No.1295 dated 5.7.2013 titled 'Dharampal Gautam Versus Suresh Kumar and others', summoning order dated 18.5.2015 passed by Sub Divisional Judicial Magistrate, Samalkha besides revisional order dated 12.6.2017 passed by learned Additional Sessions Judge, Panipat contending that the impugned orders are illegal against facts, contrary to law and that the complainant had filed the complaint on false and vexatious grounds just to exert pressure upon the petitioners to compromise the matter in criminal case bearing FIR no.716 dated 29.9.2011, under Sections 427, 430, 447, 506/34 IPC, Police Station Samalkha registered on the basis of complaint by Krishan (since dead), who was brother of petitioners Suresh Kumar etc.; that the complainant was found in illegal possession over the watercourse besides damaging the kacha watercourse and further complainant had

filed an execution petition in Civil Suit No.87 of 2011 titled 'Dharam Pal Versus Krishan and others', which had been dismissed vide order dated 11.4.2013 and that after dismissal of the execution petition, respondent – complainant had filed a complaint with an ulterior motive to harm and harass the petitioners. In the petition, there is reference to the other litigation between the parties stating that no such incident had taken place on 17.10.2012 at about 3:00 p.m. and further every person has a right to make application against a public servant for making inquiry against him, if he thinks that the public servant is doing so wrong, which does not fall with the definition of defamation

I have gone through the file and I find that there is no merit in the petition and the same is doomed for failure.

A perusal of the impugned complaint goes to show that not only there are allegations against accused Suresh Kumar, Ravita Devi making complaints to the higher officers of complainant in collusion with their co-accused but there is reference to the allegations being levelled to the effect that character of complainant is bad and he demands bribe for doing any work, that he remains absent from duty and has not been performing his duty properly since he remains busy in his domestic work. Furthermore, there is reference to accused Nos.1 and 2 levelling allegations that after stealing electric articles from Electricity Department, the complainant sells the same causing loss to Electricity Department or that he indulges in theft of electricity using filthy language towards the customers. Then there is a reference to an incident dated 17.10.2012 at about 3:00 p.m. when the complainant was statedly present in his office, then all the accused had come there and started

using filthy words towards the complainant in presence of his colleagues and other persons calling him BALATKARI, RISHWATKHORI and GUND threatening to kill him. Therefore, it cannot be said that no offence is disclosed against the accused. Learned Sub Divisional Judicial Magistrate, Samalkha after considering the allegations in the complaint and evidence adduced vide detailed well reasoned order came to the conclusion that prima facie case to summon the accused under Sections 500, 506, 120-B IPC was made out. Though this order was challenged by the accused in the Court of Sessions by way of filing the revision petition but then learned Additional Sessions Judge, Panipat vide judgment dated 12.6.2017 has observed as follows:

Perusal of the Trial Court file reveals that revisionist-accused Ravita Devi wife of revisionist-accused Suresh Kumar filed complaint Ex.C1 against respondent – complainant to the Deputy Commissioner, Panipat alleging therein that the respondent-complainant and his brother Dharambir Lineman are men of immoral character, corrupt and goons and they were beaten up the public. It was also alleged therein that the respondent-complainant has committed theft of electric articles from the office of electricity department and has sold the same to the contractors on lesser value thereby causing loss to the department. It was also alleged that the respondent-complainant was also committing theft of electricity. Revisionist-accused Suresh Kumar also moved complaint Ex.C2 to the Chief Minister, Haryana levelling allegations

of corruption and immoral character against the respondent-complainant. The complaints against the respondent-complainant were investigated and letter dated 2.5.2013 of Executive Engineer (OP) Division, Uttari Haryana Bijli Vitran Nigam Limited, Samalkha makes it clear that there is some family feud between the parties as they belong to the same village and revisionists-accused are habitual of moving complaints against Dharampal Gautam, Junior Engineer (respondent-complainant herein) and Dharambir Gautam, Assistant Lineman. Thus, the complaints moved by the revisionists-accused against the respondent-complainant were filed. Besides this, it is also alleged that on 17.10.2012, at about 3:00 p.m., the revisionists-accused entered the office of the respondent-complainant and abused him calling rapist, corrupt and goon and also threatened to kill him, in the presence of officials of the department and the public persons. Respondent-complainant himself appeared in the witness box as CW1 and has also examined Shyam Singh, employee of the electricity department as CW2 who has also stated that on 17.10.2012, at about 03:00 p.m., all the accused entered their office and abused complainant Dharampal calling him rapist, corrupt and goon. They also threatened to kill him. Thus, there was sufficient material on file to proceed against the revisionists-accused under Sections 500 read with Section 120-B and 506 IPC and learned

Magistrate has committed no error while summoning the revisionists-accused for the commission of aforesaid offences. I have gone through the orders referred by learned counsel for the revisionists-accused, but in view of my above discussion, the same are distinguishable on facts and are of no help to the revisionists-accused.

Now such petitioners have approached this Court by way of filing the present petition under Section 482 Cr.P.C. taking all those pleas, which had been put forward by them in the revision petition and duly discussed but discarded by learned Additional Sessions Judge, Panipat.

The petitioners are finding fault with the criminal complaint so filed, summoning order passed therein as well as judgment passed by learned Additional Sessions Judge, Panipat dismissing the revision petition against the summoning order. Only after trial it can be determined as to whether the allegations levelled in the complaint by complainant against the petitioners are false or correct. At this stage, no ground is made out to accept the petition and quash the impugned orders and the criminal complaint.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

18.1.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No