

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

**CRM-M No.41447 of 2015 (O&M)
Date of decision : September 25, 2018**

Dr. Jasdip Kaur and another Petitioners

Versus

Manjit Singh Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ritesh Pandey, Advocate for the petitioners.

Mr. Gagneshwar Walia, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The present petition has been filed for quashing of criminal complaint No.73, dated 27.11.2008, under Sections 500 read with Section 34 and 120-B IPC titled as “*Manjit Singh vs Dr. Jasdeep Kaur and another*” pending in the Court of learned Chief Judicial Magistrate, Gurdaspur (Annexure P-1) and the summoning order dated 06.09.2011 (Annexure P-2).

The facts of the case as coming out from the complaint and documents are that respondent Manjit Singh was working as Kanungo in the Revenue Department. Petitioner No.1, namely, Dr. Jasdip Kaur lodged an FIR No.42 on 19.03.2007, under Sections 452, 332, 353, 186, 148 and 149 IPC, registered at Police Station Sadar Gurdaspur, which is still pending before the Court of adjudication. Since, Manjit Singh failed to obtain bail, therefore, he remained absent from duty from 19.03.2007 to 23.03.2007. He got leave for the said period on medical ground on the basis of OPD slip.

Petitioner No.1 after getting information under the RTI from the office of Deputy Commissioner (Annexure P-4) moved the application before the Civil Surgeon, Gurdaspur, who vide letter Ex.P5 informed that the said OPD slip dated 19.03.2007 has not been issued by any Medical Officer. On the basis of the same, petitioner No.1 filed a criminal complaint before the learned Chief Judicial Magistrate, Gurdaspur, under Sections 198, 199, 200, 409 420, 467, 468 and 471 IPC, in which vide order dated 21.03.2009 (Annexure P-7), said Manjit Singh has been summoned as an accused to face trial under Sections 199 and 198 IPC. The trial of said case is since pending.

Manjit Singh on the other hand filed a criminal complaint No.73 on 27.11.2008, under Sections 500 read with Sections 34 and 120-B IPC levelling the following allegations:

“3. That, accused no.1 in connivance and conspiracy with accusation no.2 with common intention in order to tarnish the clean image of the complainant prepared a false, concocted and defamatory complaint dated 6-11-07 against the complainant stating that complainant “Manjit Singh with intent to cheat the department has prepared a forged and fabricated OPD slip of Civil Hospital, Gurdaspur for the period 19-3-07 and in furtherance of that he has fraudulently submitted the said false and fabricated OPD slip to Tehsildar Gurdaspur”. Accused no.1 also stated in her complaint that the complainant has obtained leave w.e.f. 19-3-07 to 23-3-07 on the forged OPD slip. Above allegations were leveled by the accused against the complainant fully knowing well that same are false and further accused wholly new the respect and esteem of the complainant would be lowered in the eyes of colleague of the complainant and in the eyes of general public. --”

In this case, the allegations of the petitioners in the complaint are that a false complaint was made against them.

Learned counsel for the petitioners has argued that the case of the petitioners are fully covered under the exception 8 of Section 499 IPC, wherein preferring accusation in good faith to an authorized person is not an offence.

Learned counsel for the respondent has argued that the summoning order has been rightly passed and that respondent has been defamed by levelling false accusations.

In this case, a complaint has been made to the Court of learned Chief Judicial Magistrate, Gurdaspur, on the basis of which the summoning order has been passed. Petitioner No.1 has collected the evidence by filing the application under RTI and on the basis of information supplied under the RTI, she has filed the complaint. Therefore, filing of criminal complaint before the Court on the basis of the documents is not defamation and is covered under the exception 8 of Section 499 IPC

It being so, criminal complaint No.73, dated 27.11.2008, under Sections 500 read with Section 34 and 120-B IPC titled as ***“Manjit Singh vs Dr. Jasdeep Kaur and another”*** pending in the Court of learned Chief Judicial Magistrate, Gurdaspur (Annexure P-1) along with summoning order dated 06.09.2011 (Annexure P-2) stand quashed.

As such, the present petition is allowed.

(KULDIP SINGH)
JUDGE

September 25, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes