

CRM-M-45593-2017

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

CRM-M-45593-2017

Date of Decision: 23.01.2018

Avtar Singh

.....Petitioner

Vs.

Kuldeep Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Chandan Singh Rana, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

Learned counsel for the petitioner submits that firstly, the impugned order passed by the learned revisional Court (Additional Sessions Judge, Ludhiana), has been passed in the absence of counsel for the petitioner, with an Amicus Curiae appointed by that Court. He submits that the petitioners' counsel never appeared on the previous date of hearing before that Court, i.e. 29.08.2017, on which date it was adjourned to 31.08.2017, when a learned counsel was asked to assist the Court as Amicus Curiae.

He further submits that respondent no. 1 herein, Kuldeep Singh, has also filed CRM-M-36591 of 2015 before this Court, along with another co-accused Ajaib Singh, also seeking the same relief as was sought by him in the revision petition before the learned Additional Sessions Judge, inasmuch as, what is sought in CRM-M-36591 of 2015 before this Court, is quashing of the criminal complaint itself, as also the summoning order dated 09.07.2014, with the said summoning order having been challenged by way of the aforesaid petition.

Consequently, he not having disclosed before the revisional Court that he has also filed the aforesaid criminal miscellaneous petition before this Court, the impugned order deserves to be set aside on this ground alone.

Having considered the aforesaid arguments and having also taken up CRM-M-36591 of 2015, which is also listed before this Court today itself at serial No. 256, learned counsel for the petitioners in that petition points to the fact that vide CRM-29395-2017, petitioner no. 1 in that petition (Kuldeep Singh), has sought permission to withdraw the said petition qua him.

Though undoubtedly the application for withdrawing CRM-M-36591 of 2015 qua Kuldeep Singh was filed after the order impugned in the present petition, i.e. CRM-M-45593 of 2017, was passed, which order is dated 31.08.2017, however, having perused the order on merits, it is seen that what has been held by the revisional Court is that the respondents in this revision petition (including petitioner no. 1 in CRM-M-36591-2015), were in fact working in the UAE for the past 8 years and even in the complaint filed by one Surjeet Kaur making allegations against the complainant Avtar Singh, i.e. present petitioner in CRM-M-45593 of 2017, the respondents in this petition, i.e. Kuldeep Singh and Hardev Singh, were neither signatories nor were they in any other manner shown to be involved in making any false allegations against the petitioner-complainant Avtar Singh.

Learned counsel for the petitioner-complainant submits that it was never proved that they were actually in the UAE and therefore, that finding of the revisional Court is not based upon any cogent evidence led.

It is seen that the factum of the respondents herein, i.e. Kuldeep Singh and Hardev Singh, being in the UAE for the past 08 years were based on the driving licences issued to them in that country. The respondents herein were also

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found to be permanent truck drivers with two different companies in the UAE for the past 8 years.

Presumably, the said finding was recorded by the revisional Court on the basis of evidence led, with nothing shown by learned counsel for the petitioner to show that the finding is perverse.

Otherwise also, even if it is to be presumed that them working in the UAE for the past 8 years was never fully proved, yet, with no other document led by way of evidence by the petitioner-complaint, other than the complaint of Surjeet Kaur, wherein she is alleged to have defamed him, I do not see how the finding of the learned revisional Court to the effect that the respondents in this petition were not seen to be involved in any kind of defamation against the petitioner-complainant, is perverse in any manner.

Learned counsel for the petitioner also, on query, does not deny the fact that other than the aforesaid complaint made by Surjeet Kaur, no other document was produced by him in evidence; though he submits that as a matter of fact the respondents herein were involved in defamation by making a complaint earlier in the year 2010.

That document never having been relied on in any manner before the trial Court, or even produced before the revisional Court, I see no reason to interfere in the impugned order.

The petition is consequently, dismissed.

January 23, 2018
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes