

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

Criminal Misc.No.M-4959 of 2018 (O&M)

Date of Decision : 06.02.2018

Smt. Nilima Verma and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Arvind Kashyap, Advocate for the petitioners.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioners have preferred the instant petition under Section 482 Cr.P.C. for quashing of complaint No.29/16/17 dated 08.08.2016/22.05.2017, under Sections 499, 500, 504, 506, 34 IPC, pending in the Court of learned Judicial Magistrate Ist Class, Amritsar and the order dated 18.11.2017, passed by that Court in the said complaint whereby the petitioners have been summoned under Section 500 read with Section 34 IPC.

The crux of the allegations have been given in the impugned order. This Court would like to reproduce the same hereunder:-

“The brief facts of the complaint as stated by the complainant that the complainant is permanent resident of above said address. The complainant have two sons. The complainant along with his family residing very peacefully and are law abiding citizens. The complainant running business of imported marbles and imported hardwares, tiles, sanitary wares etc. on the name and style of white marble house, with honesty and with great hard work. The complainant also trade import and export business in another cities outside from Amritsar. On the basis of his honesty and hard work business and on the basis of his personal nature he earned lot of respect in locality, relatives, society in Amritsar as well as in business relations and society outside Amritsar city. People used to give him due respect

and always see him in respectable men in the society. His younger son's Sunir Uppal's marriage was solemnized with Shiny Verma daughter of accused no.1 Neelima Verma. They were residing at Gurgaon, Delhi. They have some temperamental differences due to which there arose matrimonial litigation between both in courts at Delhi. Due to this accused Neelima Verma started nursing personal grudge against him. Accused No.2 Lokesh Sehgal, and accused no.3 Sunil Dhandona are relatives of accused no.1 Neelima and they are his business competitors and they also have personal grudge with him and used to give threats to him and his family. Shiny Verma got a false case registered u/s 498 A IPC against his son Sunir Uppal at Police Station Nanak Pura New Delhi. On 28.6.2016 said Shiny Verma for the purpose of personal search came to his house and at his showrooms. On 28.06.2016 accused Neelima Verma, Lokesh Sehgal, Sunil Dhandona along with fifty sixty anti social persons, goons came at outside his house and started abusing him, threatening him and give filthy abuses on the name of his mother and sister. On which people of locality also and passers also gathered there. Neelima and other accused in order to lower his reputation and defame him publicly started leveling false allegations. Accused Neelima shouldly alleged that the complainant is characterless person having two ladies and he had also kept his sister-in-law and he has illicit relation with her and also leveled allegations that his elder son Summit Uppal is also a characterless person and he also kept two three ladies and have illicit relation with them. She further leveled allegation that his son Sunir Uppal is also characterless person and he used to get different ladies in his flat and have lavish life with women. And further alleged that his total family is of bad character. Accused Lokesh Sehgal shouldly said that the complainant is a big cheater (Choor & Thug) and accused Sunil Dhandona leveled allegations and

said that the complainant used to do cheating and the complainant established his business and earned property by way of cheating (Choorea & thugea) and also said that the complainant is a big cheater. They uttered these defaming word publicly with an intention to defame in society at large inspite of knowledge that they are leveling false and frivolous allegation against the complainant and his family. On the spot of occurrence Maninder Singh did video recording of spot and one Swaraj Singh son of Rawail Singh clicked photographs of accused on occurrence. Kulwinder Singh Nand Lal etc. requested to accused not to use defamatory words and abusing against the complainant but the accused ignored their request and shouldly used abusive language again and again and alleged that today they will not let him to give his face in society and if they will get another chance they will eliminate him and his family, all the occurrence is witnessed by Kulwinder Singh, Nand Lal, Maninder Singh, Swaraj Singh and others. The accused intentionally inspite of having due knowledge and belief that they are leveling false allegations and are defaming the complainant and furtherance of their intention they also used false and filthy language against the complainant and his family in electronic media in which was telecasted publicly and newspapers and they have also defamed the complainant and his family in newspapers. The complainant informed about this occurrence to police. But due to the political influence of accused police has not taken further action against accused. The accused in common intention of them used bad word against the complainant and his family due to which his relatives, general persons in society and his business links and friends started seeing him with disrespectful eyes. All the accused intentionally defamed the complainant and they are liable to be tried and punished in accordance with law.

2. *In order to prove its case the complainant*

examined CW1 Maninderjit Singh who deposed as per the version of the complaint and deposed against the accused no.1 Neelam Verma that she started that the complainant and his son Sumit are womanizers. He stated that he can identify the accused No.2 and 3 as when they appear before him.

3. *Further, the complainant examined CW2 Nand Lal Sharma who also deposed as per the complaint of the complainant. He stated that all the accused used defamatory words against the complainant.*

4. *CW3 the complainant himself stepped into the witness box and deposed as per his complaint. He placed on record photographs of the accused no.1, 2 and 3 at the time of occurrence as Ex.C1 to C8 and one CD as Ex.C9.*

5. *CW4 Swaraj Singh photographer deposed regarding the clicking of photographs. He stated that the person were using abusive and filthy language when he clicked the photographs. He proved on record the photographs Ex.C1 to C8.*

6. *CW5 Kulwinder Singh also deposed as per the story of the complainant.*

As the accused no.1 was residing outside the territorial jurisdiction of this court and enquiry u/s 200 Cr.P.C. was got conducted.

7. *Heard. In order to prove his complaint the complainant was fulfill the requirements as mentioned in Section 499 IPC which reads as*

499. Defamation:- *Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.*

8. *The complainant examined five witnesses who*

supported the version of the complainant as mentioned in his complaint. CW1 CW2, CW3 and CW5 has specifically stated against accused no.1 that she shouldly said that the complainant and his son are womanizers. The complainant has kept his sister-in-law with him and has illicit relation with her. All of the above-mentioned witnesses also stated that accused no.1 shouldly said that complainant is a big cheat and thug. Further, regarding the accused no.3 the witnesses stated that he said that the complainant is carrying on his shop by cheating and thugging people. CW4 photographer Swaraj Singh stated that he clicked the photographs Ex.C1 to C8. He stated that the persons in the photograph were using abusive and filthy language against the complainant when he clicked the photographs.

From the above discussed deposition of the witnesses and photographs placed on record. It is shown that the accused inconnivance with each other outside the house of the complainant gave statements against the complainant which were defamatory as the complainant and his son were said to be a womanizers. The complainant was said to be a cheat and thug. These statements shouldly said outside the house of the complainant lowered his reputation in the society, general public, friends and relatives. Therefore, at the stage there are sufficient grounds to proceed against the accused u/s 500 IPC for causing defamation of the complainant by speaking words which harmed the reputation of the complainant. Therefore, accused no.1 Neelima Verma, accused no.2 Lokesh Sehgal and accused no.3 Sunil Dhandona be summoned u/s 500 IPC read with section 34 IPC for 13.12.2017. The complainant is directed to supply the required number of copies of complaint and process fee etc. for the service of summons to the accused.”

Learned trial Magistrate passed the impugned order after going

through the preliminary evidence which includes documentary and oral evidence.

Learned counsel for the petitioner has submitted that the case of the petitioner is covered by exception 9 of Section 499 IPC. The said clause reads as under:-

“Imputation made in good faith by person for protection of his or other's interests –It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.”

The words used by the petitioner as aforesaid were never in good faith for protecting his interest. It has been further submitted that the petitioners had gone for the search of the premises of the complainant in pursuance of search warrants (Annexure P-3) but to the mind of this Court, he was authorized by none to use the defamatory words. It has been further submitted that the words used by the petitioners only at the spur of moment and without any intention to defame but there is completely lack of evidence to substantiate this plea and no inference can be drawn to this effect.

To the mind of this Court, the impugned order does not suffer from any illegality, infirmity or irregularity, therefore, the same does not call for interference.

In view of aforesaid discussion, the instant petition stands dismissed.

06.02.2018
mamta-M

Whether speaking/reasoned
Whether Reportable :

(RAJ SHEKHAR ATTRI)
JUDGE

Yes/No
Yes/No