

CRR No. 2557 of 2018

Date of Decision: August 07, 2018

Krishan Chawla

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present:- Mr. Amrainder Rana, Advocate
for the petitioner

Sudhir Mittal, J. (Oral)

The petitioner has challenged that part of the judgment dated 31.05.2018, whereby notice has been directed to be served upon the petitioner under Section 344 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for giving false evidence.

The petitioner is the complainant. He moved a written complaint dated 17.01.2017 Ex. PE resulting in registration of FIR No. 20 of even date under Sections 506, 120-B IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012. During the trial, the petitioner failed to recognize the accused persons in Court, although they had been specifically named by him in the complaint. Thus, they were acquitted vide impugned judgment dated 31.05.2015.

As mentioned earlier, the written complaint is on record of the trial Court as Ex. 'PE'. While appearing as PW-3, the petitioner admitted his signatures on the said complaint but failed to identify the accused persons. Thus, the trial Court felt that the petitioner should be summoned and tried under Section 344 Cr.P.C.

Learned counsel for the petitioner submits that the complaint Ex. 'PE'

was not a statement made on oath and, therefore, the learned trial Court fell in error

in construing the same as evidence which was later on contradicted by the petitioner while appearing as PW-3. He places reliance upon judgment dated 12.03.2014 in CRR-1039 of 2013 titled as ***Bant Singh vs. State of Punjab*** wherein a judgment of the Orissa High Court ***T. Bhagi Patra vs. State of Orissa, 1996(2) Crimes 439*** has been relied upon.

A perusal of Section 344 Cr.P.C. shows that at the time of delivering the judgment, the Court of Session or that of Magistrate of the Ist Class may record its satisfaction regarding it being necessary and expedient to try a witness summarily for giving false evidence and may issue notice to such a person. In the present case, the original complaint made to the police by the petitioner is on record as Ex. 'PE'. While appearing as PW-3, the petitioner admitted his signature thereon. In the said document the names of the accused find mention but the petitioner failed to recognize them while appearing as PW-3. Thus, the Court was satisfied that the petitioner gave evidence in the Court contrary to the statement contained in Ex. 'PE'. The document Ex. 'PE' is also evidence on record and, thus, the satisfaction recorded by the trial Court can not be held to be erroneous nor it can not be held that the statement made by the petitioner as PW-3 is not contrary to the evidence on record.

The judgment in ***Balbir Singh's case (supra)*** can not come to the rescue of the petitioner for the reason that in the said judgment the statement made by the person summoned under Section 344 Cr.P.C. in the Court, was contrary to his statement under Section 161 Cr.P.C. and it was held that the statement under Section 161 Cr.P.C. not being evidence, the Court was ill advised in recording the satisfaction that false evidence was submitted before it. The principle laid down in the said judgment is that evidence on record must be contradicted by a statement made by the same person and only then a Court would be justified in summoning an

for the reasons already mentioned hereinabove.

Thus, the petition has no merit and is, accordingly, dismissed.

However, anything stated hereinabove shall not be construed to be an expression of opinion on merits of the case and the trial Court shall decide the case under Section 344 Cr.P.C. uninfluenced by any observation made hereinabove.

August 07, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No