

CRM-M-10283-2013 (O&M),
CRM-M-39240-2012 (O&M),
CRM-M-39239-2012 (O&M) and
CRM-M-32898-2014 (O&M)

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

1. CRM-M-10283-2013 (O&M)
Date of decision : 23.09.2019

Dr. Ranmeet Batra ...Petitioner

Versus

Preeti Gupta and another ...Respondents

2. CRM-M-39240-2012 (O&M)
Date of decision : 23.09.2019

Kamal Gupta ...Petitioner

Versus

Dr. Rupinder Singh ...Respondent

3. CRM-M-39239-2012 (O&M)
Date of decision : 23.09.2019

Kamal Gupta ...Petitioner

Versus

Dr. Ranmeet Batra ...Respondent

4. CRM-M-32898-2014 (O&M)
Date of decision : 23.09.2019

Dr. Rupinder Singh ...Petitioner

Versus

Preeti Gupta ...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V.K. Goswami, Advocate for the petitioner(s)
(In CRM-M-39240-2012 and CRM-M-39239-2012)
for respondent(s)
(In CRM-M-10283-2013 and CRM-M-32898-2014)

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Ms. Divyastuti Parsoon, Advocate,
Mr. Harshvardhan Sherawat, Advocate and
Mr. Rujhan Dhawan, Advocate for the petitioner(s)
(In CRM-M-10283-2013 and CRM-M-32898-2014)
for respondent(s)
(In CRM-M-39240-2012 and CRM-M-39239-2012)

Dr. Rupinder, petitioner in person
(In CRM-M-32898-2014) and
respondent No.2 (In CRM-M-39240-2012)

ANIL KSHETARPAL, J.

By this order, CRM-M-10283-2013, CRM-M-39240-2012, CRM-M-39239-2012 and CRM-M-32898-2014 (four in number), shall stand disposed of.

Two petitions have been filed by Kamal Gupta whereas remaining two petitions have been filed by Dr. Rupinder Singh and Dr. Ranmeet Batra. The order of summoning issued by the Judicial Magistrate in two separate criminal complaints filed under Section 500 read with Section 34 IPC has been modified in revision by the learned Additional Session Judge, Yamuna Nagar by two separate judgments of even date.

Now through these four petitions, the judgments passed by the learned Additional Session Judge dated 10.10.2012 in two separate criminal revisions are being challenged. Counsel for the parties are also agreed that all these petitions can be conveniently disposed of by a common order.

From the facts available on the record, it is apparent that Dr. Ranmeet Batra and Dr. Rupinder Singh had filed two criminal complaints alleging that the accused had committed an offence of defamation as defined

in Section 499 punishable under Section 500 of the Indian Penal Code. In one complaint filed by Ranmeet Batra, three persons were arrayed as accused including Kamal Gupta. In the second complaint filed by Dr. Rupinder Singh, Kamal Gupta and his wife Preeti Gupta were impleaded as respondent-accused. In both the cases, Judicial Magistrate summoned all the accused whereas in revision against the order of summoning, learned Additional Session Judge has set aside the order of summoning against the other accused except Kamal Gupta.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the orders passed by the Courts below as well as the documents filed in these petitions.

Learned counsel appearing for Sh. Kamal Gupta has submitted that the offence of defamation is not made out against the petitioner as the case of the petitioner-Kamal Gupta is covered by Eighth Exception to Section 499 of IPC. He submitted that the complaints preferred were in good faith and, therefore, the petitioner-Kamal Gupta should not be saddled with the criminal prosecution.

On the other hand, in both the petitions filed by learned counsel for the petitioner-Ranmeet Batra and Dr. Rupinder Singh in person have jointly submitted that learned Additional Session Judge committed an error in partly accepting the revisions and absolving Miss Preeti Gupta in both the criminal complaints and Dr. Monika Singh in one of the complaint. Hence, they submitted that the order passed by the learned Additional Session Judge is erroneous.

Before this Court deals with the issue, it would be appropriate to extract Eighth Exception to Section 499 of IPC:-

“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.

Explanation xxx xxx xxx

First Exception to Seventh Exception xxx xxx xxx

Eighth Exception.-Accusation preferred in good faith to authorised person.-It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father-A is within this exception.

Ninth Exception and Tenth Exception xxx xxx xxx xxx”

It is apparent that Eighth Exception provides protection to the accused if the accusations preferred were in good faith to authorized person. Question is can this Court at this stage record a finding that accusation preferred were in good faith to authorized person or not. The answer to the question is obviously in negative. Whether the accusations were in good faith or not, would depend upon the evidence to be led. At this stage, this

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Court finds itself unable to record such finding.

This Court has carefully examined the impugned judgment passed by the learned Additional Session Judge in both the cases. While hearing the revision against the summoning order, learned Additional Session Judge has examined the facts of the case in detail with respect to each of the accused and has found that the summoning order qua Preeti Gupta in both the complaints and Monika Singh with regard to one of the complaint suffers from patent error as averments made in the criminal complaint and the evidence led is not sufficient to summon these persons.

Still further, these petitions have been filed under Section 482 Cr.P.C. which in fact these petitions are in the nature of second revision petition, barred under Sub Section 3 of Section 397 Cr.P.C. It is well settled that under the garb of petition under Section 482, second revision petition cannot be maintained.

This Court does not find any good ground to entertain these four petitions filed under Section 482 Cr.P.C. Hence, all the petitions are dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

23.09.2019

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No