

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

**CRM No.M-14773 of 2017 (O&M)
Date of Decision: March 13, 2019**

P.S.Shergill

...Petitioner

VERSUS

Pardeep Chhabra

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gagandeep Singh Wasu, Advocate
for the petitioner.

Mr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Deepak Jindal and Mr.Lovish Mittal, Advocates
for the respondent.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.21800 of 2013 dated 16.03.2011 titled as 'Pardeep Chhabra vs. P.S.Shergill' and summoning order dated 29.03.2017 along with consequential proceedings arising therefrom.

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

From the record, I find that Pardeep Chhabra filed the complaint against P.S.Shergill, PCS under Section 199 Cr.P.C. to prosecute and punish the accused under Section 499 read with Section 500 IPC for

defaming image and personality of the complainant. It is mainly stated in the complaint that accused was SDM, Central in whose jurisdiction, the ward of the Municipal Corporation, Chandigarh, from where the complainant is a regular and sitting councillor, falls (Sector 16-17 and Sector 22). During the Diwali festival celebrations, poor hawkers and poor persons of the locality having valid licences, have installed stalls for selling various items. Accused person made a surprise visit along with force and started removing the stalls. The complainant, being the area councillor, was approached by the affected persons. Thereafter, the complainant approached higher authorities in order to redress the genuine grievances of the poor persons and with the intervention of higher authorities, the poor hawkers were allowed to continue. At this, the accused felt publicly humiliated and insulted at the hands of complainant and threatened the complainant. The aforesaid incident is the main reason for accused to make derogatory, blemish as well as unwarranted remarks in his report which was leaked to the leading newspapers. In the report, the complainant was referred as mafia and kingpin in the allotment of booth scam. There is also report against other persons. It is further stated in the complaint that those findings have been given with ulterior motive and accused has gone beyond the scope and ambit of his official duty.

At the time of arguments, learned counsel for the respondent argued that derogatory remarks have been mentioned in the report submitted by the accused-petitioner to the higher authorities. Learned counsel for the respondent admitted that no sanction under Section 197 Cr.P.C. has been obtained by the complainant-respondent before filing the complaint. He

further argued that as the petitioner was transferred and has also

relinquished the charge, therefore, submission of report after relinquishing the charge does not fall in the discharge of official duties and sanction under Section 197 Cr.P.C. is not necessary.

I have heard learned counsel for the parties and have gone through the record.

I do not find merit in the arguments of learned counsel for the respondent. Admittedly, enquiry was entrusted to accused-petitioner, who was SDM at that time. The report submitted by the accused-petitioner is still pending with the higher authorities. The report was neither rejected nor accepted. There is also nothing on the record that at any point of time or at any stage, enquiry was withdrawn from the petitioner and entrusted to some other person. If the petition, after conducting the enquiry, has submitted the report after relinquishing the charge, only on this ground, it cannot be held that report was not submitted by the petitioner while performing his official duties. Rather, report has been submitted by the petitioner in discharge of his official duties and sanction under Section 197 Cr.P.C. is necessary in this case. Without taking necessary sanction, criminal proceedings cannot be allowed to continue against the petitioner, which are against the law.

By way of sanction, a protection has been given to the public servant to discharge his official duties independently and without fear of criminal proceedings etc. regarding his duties.

In view of the above discussion, I find that filing of complaint in the present case is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is

allowed. Criminal complaint No.21800 of 2013 dated 16.03.2011 titled as

'Pardeep Chhabra vs. P.S.Shergill', summoning order dated 29.03.2017 and all subsequent proceedings arising therefrom, are hereby quashed.

March 13, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No