

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-17552 of 2015

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Date of decision:23.01.2019

Amir Hussain

.....Petitioner

v.

Manmohan S. Chandna

.....Respondent

....

Present: Mr. Sunil Chadha, Senior Advocate with Mr. Sharad Mehra,
Advocate for the petitioner.

Mr. Sanjeev Sharma, Advocate as Legal Aid Counsel for the
respondent.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. seeking quashing of criminal complaint No.83 dated 19.7.2013 (Annexure-P.1) titled as “Manmohan S. Chandna Vs. Amir Hussain” filed for the offences under Sections 323, 499, 500 and 506 IPC, which was pending in the Court of Judicial Magistrate Ist Class, Gurgaon, as well as all the subsequent proceedings taken in pursuance thereof including the order dated 8.1.2015 (Annexure-P.6) passed by learned Judicial Magistrate Ist Class, Gurgaon.

Notice of motion was issued in this case.

Mr. Sanjeev Sharma, learned Advocate as Legal Aid Counsel has appeared on behalf of the respondent and contested this petition.

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

A perusal of the record shows that Manmohan S. Chandna filed criminal complaint against Amir Hussain for the offences under Sections 323, 499, 500 and 506 IPC. As per the allegations, son of the complainant, namely, Gaurav Chandna was living in U.K. along with his family and he booked one unit in Sweta Estate Pvt. Ltd., Central Park-II, Gurgaon. He had authorized his father-complainant to look after the unit work and to do all the needful for the unit being father of Gaurav. The complainant found forgery in the financial matters of other units and there is a dispute of commission of other units and he made written complaint against the staff members of the Company, namely, Loveleen, Sulekha and C.P. Associated Broker. The staff members became enemy of the complainant as he made complaints against them. On 14.6.2013, the complainant visited the Society office along with Harish Kumar-his friend in connection with the demand notice and change of address for the future correspondence and when they were sitting in the visitors' gallery, the accused came there on the pointing out of the staff members, against whom the complainant made complaints, and they immediately started hurling abuses on the name of the complainant's mother and sister. When the complainant tried to pacify the accused and after hearing that the accused again became furious and started abusing the complainant and insulted him, he was saved from the clutches of the accused. On the basis of preliminary evidence, as argued, the accused was summoned for the offence under Section 323 IPC by the learned trial Court and was not summoned under other offences.

A revision petition was filed by the accused before the Court of Session and the learned Sessions Judge, Gurgaon gave the findings that no

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offence under Section 323 IPC is made out. But the learned Sessions Judge remanded the matter to the learned trial Court to consider the offences under Sections 352 and 355 IPC.

I have gone through the provisions of Sections 352 and 355 IPC. Firstly, the complainant was not a public servant nor discharging any public duty. Therefore, those offences are not made out. Furthermore, Sections 352 and 355 IPC both include the assault or criminal force, but the Court has already held that offence under Section 323 IPC is not made out. Otherwise also, there is nothing in the complaint that any simple injury was caused to the complainant.

Keeping in view the above fact that the accused was summoned only under Section 323 IPC and in the revision petition, the learned Sessions Judge has held that no offence under Section 323 IPC is made out, the complainant is not alleging the offences under Sections 352 and 355 IPC in the complaint, I find that the order passed by the learned Sessions Judge remanding the matter to the trial Court to reconsider the matter and the subsequent proceedings are not as per law. Further more, the perusal of the complaint itself shows that the filing of the complaint and the subsequent proceedings are nothing but an abuse of process of law and amounts to miscarriage of justice.

Therefore, from the above, I accept this petition and criminal complaint No.83 dated 19.7.2013 (Annexure-P.1) titled as “Manmohan S. Chandna Vs. Amir Hussain” filed for the offences under Sections 323, 499, 500 and 506 IPC, which was pending in the Court of Judicial Magistrate Ist Class, Gurgaon, as well as all the subsequent proceedings taken in

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pursuance thereof including the order dated 8.1.2015 (Annexure-P.6) passed by learned Judicial Magistrate Ist Class, Gurgaon are quashed.

January 23, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No