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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-23234 of 2014 [O&M]

Date of Decision : May 15, 2019

Ramesh

.... Petitioner.

Versus

Jai Bhagwan, Halqa Patwari,
Canal Department and another

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Gaurav Tyagi, Advocate,
for the petitioner.

Mr. M.S. Panwar, Advocate,
for the respondents.

SHEKHER DHAWAN, J.

Present petition under Section 482 Cr.P.C. is directed against the order dated 11.10.2013 (Annexure P/2) passed by learned Judicial Magistrate Ist Class, Sonapat and order dated 12.02.2014 (Annexure P/3) passed by learned Additional Sessions Judge, Sonapat.

2. Facts relevant for the purpose of decision of the present petition; that a complaint was filed under Sections 323, 427, 500 and 506 of IPC, Police Station Kharkhoda against six accused persons. Out of them Kaushal Kumar Zeledar, Irrigational/ Canal Department, Jai Bhagwan Halka Patwari Canal Department and ASI Devener Singh, Police Station

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Kharkhoda, District Sonapat, arrayed as accused Nos. 4 to 6, are all public servants. As per the complaint (Annexure P/1) on 22.01.2018 all the above said accused persons in connivance with police, Zileadar and Patwari forcibly entered the fields wherein complainant - Ramesh Kumar had sown the crop of wheat and the accused uprooted the wheat crop. When they were asked the reason for doing so, the accused persons threatened to implicate them in a false case. No prior information was given by these officials before entering their fields. When the above said accused persons were opposed, they gave beatings and threatened to push them behind the bars. Thereafter, the complaint was filed before the police but no action was taken. As such, the present complaint before the Court.

3. Learned Magistrate after considering the material and evidence available on the file, came to the conclusion that there was no evidence on record to show that accused No.4 - Kaushal Kumar Zeledar, Irrigational/ Canal Department, No.5 - Jai Bhagwan Halka Patwari Canal Department and No.6-ASI Devener Singh, Police Station Kharkhoda, District Sonapat had committed any offence as alleged in the complaint. They are public servants and there is no prima facie evidence on record to show that these persons have done anything beyond their official capacity or have exceeded their jurisdiction. However, remaining accused Nos. 1 to 3 were ordered to be summoned for commission of offence punishable under Sections 323, 427 and 506 of IPC.

4. Being dissatisfied with the order dated 11.10.2013, the revision petition was filed so as to also summon Kaushal Kumar Zileadar,

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Irrigational/Canal Department, Jai Bhagwan Halka Patwari Canal Department and ASI Devender Singh, Police Station Kharkhoda, District Sonapat, as accused and to set aside the order dated 11.10.2013 to that extent. Learned Additional Sessions Judge, Sonapat, while exercising revisional jurisdiction also came to the conclusion that there was absolutely no material or record available on the file to interfere with the order passed by the learned Magistrate and as such dismissed the revision petition.

5. Learned counsel for the petitioner has also taken the similar plea at the time of arguments before this Court that both the Courts below have not considered these facts and evidence available on the file and erroneously dismissed the complaint against accused Nos. 4 to 6.

6. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that learned Additional Sessions Judge has discussed in detail that the real dispute was regarding water channel (*khal*) in the agricultural fields of the complainant and private respondents No.1 to 3. The Sub Divisional Canal Officer vide order dated 21.09.2007 observed that they were facing difficulty and the water channel needed to be restored. However, vide order dated 3.12.2007 (Ex. D5), appeal filed against the order dated 21.09.2007 was dismissed. Subsequently, the matter had gone before Superintending Canal Officer and vide Ex. D6, both the orders were upheld and it was observed that the complainant used to disturb the irrigation arrangement causing inconvenience to the others. Learned Additional Sessions Judge rightly observed that all the three accused Nos. 4 to 6 are public servants

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and there was no evidence led by the complainant against them to the effect that these persons had done anything beyond their official capacity and no permission was sought for prosecuting them as public servants if they had exceeded their jurisdiction. As are the facts before this Court, the petitioner is dis-satisfied by the orders passed by various authorities at different levels i.e. Sub Divisional Officer, Appellate Authority and Revisional Authority and because of that, complaint was filed against accused Nos. 4 to 6 as well. Both the Courts below have already scanned the record and observed that there was no material or evidence against them and as such, the complaint was dismissed qua accused Nos. 4 to 6 and the revision was also dismissed.

7. In view of the above, there is no ground to interfere in the orders impugned in this petition. The present revision petition stands dismissed in the above terms.

(SHEKHER DHAWAN)
JUDGE

May 15, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes