

...

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33878-2010 [O&M]

Date of Decision : October 1, 2019

Smt. Sangeeta and another

.... Petitioners

Versus

Darshan Lal

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Ashwani Verma, Advocate,
for the petitioner.

Mr. B.S. Jatana, Advocate,
for the respondent.

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure is for quashing of summoning order dated 22.04.2008 (Annexure P/3) passed by learned Chief Judicial Magistrate, Mansa whereby the petitioners were summoned for commission of offence punishable under Section 500 IPC; and the order dated 25.08.2010 (Annexure P/7) passed by learned Additional Sessions Judge, Mansa, whereby revision petition filed by the present petitioners was dismissed.

2. Facts relevant for the purpose of decision of the present petition; that respondent – Darshan Lal filed a complaint under Section 500 IPC against the present petitioners on the ground that the complainant is an honest man and is a person of good reputation. He is an income tax assessee. An application was filed under Order 39 Rule 2-A in the

...

proceedings of civil suit, titled **Loven Singla Vs. Parkash Devi and others** which was pending before learned Civil Judge (Senior Division) at Mansa on 4.9.2006 and in the said proceedings, the respondent appeared along with his counsel. At that time, members of general public were also present in the Court. Des Raj son of Chanji Lal and Genda Ram son of Babu Ram were also present in the Court. At that time, the present petitioners also moved an application dated 4.9.2006 against the complainant on the allegation that the respondent (herein) was a tout of the Police and their witnesses refused to give evidence and he threatened them. This language was put in the Court publically and out of the Court as well. As a result of that, reputation of the respondent lowered-down in the eyes of respectable persons present over there. Above named Des Raj and Genda Ram left the business dealings with the respondent-complainant.

3. On filing of the complaint, complainant Darshan Lal examined himself as CWE-1 and reiterated the facts as detailed in the complaint and also examined Sh. Satish Mehta, Advocate as CW-2 and Genda Ram as CW-3, who have corroborated the version of the complainant and on that basis, learned trial Magistrate found prima facie case against the accused persons and ordered summoning of the present petitioners under Section 500 IPC vide impugned order dated 22.04.2008 (Annexure P/3).

4. Present petitioners preferred a revision petition before learned Sessions Judge and vide order dated 25.8.2010 (Annexure P/7), learned Additional Sessions Judge (Adhoc), Fast Track Court, Mansa, dismissed the said revision petition. Therefore, the petitioners have filed the present petition before this Court.

...

5. Learned counsel representing the petitioners contended that both the Courts below have not considered the material facts of this case. As per learned counsel for the petitioner, the application dated 4.9.2006 does not contain any derogatory remarks. Rather, the same was moved by Sangeeta Singla, petitioner No.1 in the Court to provide security from any loss to her person and property. The application dated 2.5.2007 filed in the Court below also does not constitute any offence and it has no concern in the public view. The contents of the application were not published anywhere. As such, cognizance of offence, if any, could be taken only under Section 340 Cr.P.C and the complaint was not maintainable.

6. To support his arguments, learned counsel for the petitioners placed reliance on the judgment from the Co-ordinate Bench of this Court in **Baldev Singh Vs. Dhanna Ram**, 2002(1) RCR (Criminal) 715, wherein this Court had taken a view that Court is fully competent to take action if any situation comes before the Court. He further placed reliance upon the judgment of Co-ordinate Bench of this Court in **Kamlesh Kaur Vs. Lakhwinder Singh and another**, 2009(4) RCR (Criminal) 663, where it was held that such a matter would fall under Exception 8 of Section 499 IPC. On the same point, reliance was also placed on judgment from Hon`ble Jammu and Kashmir High Court in **Dr. Mohammad Akbar Bhat Vs. Abdul Ahad**, 2000(3) RCR (Criminal) 750 and the co-ordinate Bench of this Court in **Darshan Singh Vs. Avtar Singh**, 2002(1) RCR (Criminal) 521.

7. Learned counsel for the respondent-complainant contended that offence under Section 500 IPC is the summons case and it is for the Court to see whether any offence is made out or not. Both the Courts

...

below have scrutinized the evidence available on the file and are of the view that *prima facie* case is made out for summoning of accused to face trial for the offence under Section 500 IPC.

8. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file, this Court is of the considered view that it is not disputed in any way that at the time of passing of summoning order, the Court is to see whether *prima facie* case is made out or not so as to summon any body as accused person or not. Learned Magistrate has formed his opinion on the basis of statements of complainant, who appeared as CW-1, Sh. Satish Mehta, Advocate (CW-2) and Genda Ram (CW-3) and the application dated 4.9.2006 which is also on the file. The allegations in the complaint are that the petitioners have defamed the complainant and no one is ready to do the business with the complainant.

9. As per preliminary evidence available on the file, these allegations were levelled by the accused persons in the Court and the same were heard by member of general public present over there, who had appeared as CW-2 and CW-3. As such, learned Magistrate has rightly exercised the discretion lawfully vested in it to summon the petitioners as accused to face trial under Section 500 IPC. Learned Additional Sessions Judge has rightly dismissed the revision petition, as there was no ground to interfere in the order passed by learned Magistrate.

10. As regard to the judgments referred to and relied upon by learned counsel for the petitioners, this Court is of the considered view that the facts of the case in hand are distinguishable from the facts of the cited cases because first of all, allegation levelled in the complaint made to the

...

Court was defamatory and that was made in the Court and outside the Court as well and it is the version of the complainant that because of persons present in the Court, they have stopped dealing business with him. Further, as regard to the plea regarding the present case falling under Exception 8 of Section 499 IPC, that shall be subject to trial only and after appreciation of entire evidence and material before the Court.

11. In view of the above, no ground is made out to interfere in the order dated 22.04.2008 (Annexure P/3) passed by learned Chief Judicial Magistrate, Mansa whereby the petitioners were summoned for commission of offence punishable under Section 500 IPC and the order dated 25.08.2010 (Annexure P/7) passed by learned Additional Sessions Judge, Mansa.

12. Resultantly, the present petition stands dismissed.

(SHEKHER DHAWAN)
JUDGE

October 01, 2019

som

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