

S.No.116

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

CRM-M-48225 of 2014 (O&M)

Date of Decision:01.02.2019

Lila Ram

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Devender Arya, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner challenging the order dated 01.09.2015 passed by Sessions Judge, Narnaul, whereby while dismissing the revision filed by the petitioner, order dated 24.01.2013 passed by the Chief Judicial Magistrate, Narnaul was upheld and it was held that the criminal complaint filed by the present petitioner against respondent No.2 was rightly dismissed by the trial Court.

The brief facts giving rise to the present case are that an application under Section 156(3) Cr.P.C, was filed by the present petitioner seeking registration of a case against respondent No.2; for fabricating an 'Experience Certificate' and obtaining the job on the basis of that certificate. However, the Magistrate did not find it a case for issuing directions under Section 156(3) Cr.P.C. Instead, the petitioner was required to lead the evidence to substantiate his allegations. However, in the meantime, the Magistrate had also called for a report under Section 202 Cr.P.C from the Police concerned. In complaint, the petitioner appeared in preliminary evidence as a witness and reiterated his allegations. Besides this, the petitioner relied upon the report received by the Magistrate under

Section 202 Cr.P.C. Having appreciated the entire material on record, the Magistrate did not find the same to be sufficient to summon the respondent No.2 as an accused. Accordingly, the complaint filed by the petitioner was dismissed.

Aggrieved against the order passed by the trial Court, the petitioner preferred a revision petition before the Court of Sessions Judge, Narnaul. However, vide the impugned order dated 01.09.2015, the Sessions Judge, Narnaul also dismissed the revision petition filed by the petitioner. That is how the present petition has been filed by the petitioner.

Learned counsel for the petitioner submits that there is sufficient material on record to prima facie establish the guilt of the accused. It has been submitted that the report submitted by the Police itself shows that the 'Experience Certificate' has not been signed by one S.K. Tandon, as is mentioned in the 'Experience Certificate'. The Courts below have wrongly side-tracked the evidence while refusing to summon the accused.

Having heard learned counsel for the petitioner and perusing the file, this Court finds no substance in the argument raised by learned counsel for the petitioner. The Courts below have rightly observed that the above said S.K. Tandon, who was signatory to the alleged 'Experience Certificate', has not been examined to deny his signatures, nor any expert opinion has been led in evidence to disprove signatures of S.K. Tandon on the said document. Moreover, the verification report also shows that the said Company has informed that in the process of shifting of office, lot of record has gone missing. Therefore, they were unable to admit or deny the

certificate which was 30 years old. In that situation, if the Courts below have refused to believe the report, in absence of any witness being produced, then the Courts below have not committed any illegality or irregularity. The document, on which the petitioner is primarily relying, has not even been prima-facie proved by leading any evidence in preliminary evidence. No relevant witness has been examined by the petitioner.

In view of these facts, by no means, it can be said that the Courts below have committed any illegality or impropriety while passing the orders impugned in the present revision petition.

Otherwise also, the present petition has been filed by way of second revision by the same party; although under a different provision of law. Section 397(3) Cr.P.C specifically prohibits the filing of second revision. This aspect has already been considered by this Court in case of **CRM-M-30350 of 2018 – Sudesh and others v. State of Haryana and another**, decided on 02.08.2018. The relevant part of that judgment is reproduced under:-

“So far as the present petition is concerned, this petition has been filed for invoking power of the High Court under Section 482 Cr.P.C. A bare perusal of Section 482 Cr.P.C shows that the power under Section 482 Cr.P.C can be invoked for three purposes, namely, for giving effect to the orders passed under this Court, for preventing the abuse of the process of the Court and to meet the ends of justice. In the present case, the prayer of the petitioners is not for giving any effect to any order passed by the Court. Therefore, the first eventuality prescribed

under Section 482 Cr.P.C is not at all attracted. Still further, by any means, an order passed by a Court of competent jurisdiction and continuation thereof; cannot be branded as an abuse of the process of Court; unless it is alleged and shown to the High Court that the Courts below had acted for irrelevant reasons or for extraneous considerations. Needless to say that sufficiency of reasons is not to be gone into after the revisional Court. It is not even the allegation of the petitioners in this case that orders are passed by Court below; for irrelevant or extraneous considerations. So far as the third ingredient of Section 482 Cr.P.C is concerned, this Court is not supposed to go into 'legality' and 'propriety' of the order passed by the trial Court. Section 397(3) of Cr.P.C prohibits second revision by a party. Under Section 397(1), the Revisional Court is authorised to see 'legality' and 'propriety' of the order passed by the Court. Since second revision by the same party is prohibited under Section 397(3), therefore, any argument on 'legality' or 'propriety' of an order passed by the Court below, ordinarily, is not to be appreciated in proceedings under Section 482 Cr.P.C, unless it is shown, at the macro level, that such an order has resulted from considerations which were totally alien to the process of the Court or have produced incomprehensibly absurd result and, therefore, have resulted in defeating the ends of justice itself. What cannot be done directly, cannot be done indirectly as well. In the present case,

except to argue for re-appreciation of the material before the trial Court, there is not even a submission or an allegation regarding any aberration in the process adopted by the Courts for passing the impugned orders. Therefore, power under Section 482 Cr.P.C cannot be exercised by this Court to re-appreciate the same material, which was available before the Courts below and which have been duly appreciated by the Courts below.”

As observed above, this Court has not found even an illegality or irregularity in the order passed by the Courts below, much less to speak of adopting any procedure alien to the process of law. Hence, this petition is otherwise also not maintainable.

Dismissed.

February 01, 2019
renu

(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No