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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M-7819-2015 [O&M]
Date of Decision : July 26, 2019

Amrik Singh Petitioner

Versus

State of Punjab and another
.... Respondents

2. CRM-M-15450-2015

Sahab Singh and others Petitioners

Versus

State of Punjab and another
.... Respondents

3. CRM-M-40550-2018

Harmail Singh Petitioner

Versus

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Sanjiv Gupta, Advocate,
for the petitioners.

Mr. Pawan Sharda, Sr. DAG, Punjab,
for respondent-State.

Mr. T.S. Sangha, Sr. Advocate,
with Mr. Balwinder Singh, Advocate,
for respondent No.2.

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SHEKHER DHAWAN, J.

As challenge in all the above titled three petitions is to the Complaint titled **Ishwar Singh Vs. Chuhar Singh and others** pending in the Court of learned Judicial Magistrate Ist Class, Dera Bassi and summoning order dated 3.7.2014 and order dated 25.09.2013 passed by learned Sessions Judge, SAS Nagar, the same are taken up together and are being disposed of by this common order. For facility of reference, facts are being taken from CRM-M-15450-2015, **Sahab Singh and others Vs. State of Punjab and another.**

2. Present petition under Section 482 of the Code of Criminal Procedure is for quashing Complaint No. 22 dated 6.9.2011, titled **Ishwar Singh Vs. Chuhar Singh and others** (Annexure P/3); summoning order dated 3.7.2014 (Annexure P/6) for the offence punishable under Sections 500, 181, 191, 192, 193, 195, 199, 200 and 120-B IPC and order dated 25.09.2013 (Annexure P/5) passed by learned Sessions Judge, SAS Nagar vide which the order dated 23.1.2012 (Annexure P-2) passed by JMJC, Dera Bassi was set aside.

3. Facts relevant for the purpose of decision of the present petition; that respondent No.2 filed a complaint under Sections 463, 464, 465, 469, 471, 499, 500, 181, 191, 192, 193, 195, 199, 200 and 120-B IPC alleging that he was elected as a member of Gram Panchayat Village Punsar in the year 2008, when Rashmi Devi brother's wife of Chuhar Singh also contested but she lost. Shashi Bala nephew's wife of Satpal Lambardar also contested Gram Panchayat Election in the year 2008 and was elected member of Gram Panchayat of Village Punsar. The post of

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Sarpanch was reserved for lady candidate. The respondent-complainant supported Promila for the post of Sarpanch and Shashi Bala failed to get the support of sufficient members. The petitioners alleged to had hatched a conspiracy to implicate the respondent in false criminal case so as to deprive him in participating in the proceedings of the Panchayat elections and by registering a false case against him by forging a writing as written compromise qua a Truck of Sheo Ram and Madan Lal and an application and compromise qua passage in between Jagir Singh and Chuhar Singh which was signed by the accused persons. As per conspiracy on 30.11.2008 they concocted a story that complainant Ishwar Singh asked Jagir Singh and Sheo Ram to eliminate Chuhar Singh. They also fabricated and forged two affidavits from Sheo Ram and Jagir Singh on 1.12.2008. As per conspiracy they moved an application to SSP Mohali and by using the forged and fabricated affidavits got registered a false case against the complainant under Section 115/506 IPC vide FIR No. 139 dated 9.12.2008 at Police Station Lalru. Complainant was arrested in the above said FIR and faced trial before the Sessions Court, Mohali and was acquitted in the said case. On the basis of false FIR accused persons got moved an application from SHO, P.S Lalru to DDPO Dera Bassi against the respondent/complainant who further sent a report to Director, Panchayat, Punjab and on the basis of that report Director Panchayat placed him under suspension and respondent/compliant was deprived from participating the proceedings of Gram Panchayat.

4. The complainant led preliminary evidence including his statement as CW-1 and learned trial Magistrate after considering the evidence available on record dismissed the complaint vide order dated

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23.1.2012 (Annexure P/4) and passed the following order :-

“.... Hence, as per the Section 195 Cr.P.C., this Court has no power to take cognizance of the offences in the present complaint as the complaint has been filed by a private person. In view of the above mentioned facts and circumstances and Section 195 Cr.P.C., there are no sufficient grounds for summoning the accused persons. Hence, the present complaint is hereby dismissed. File be consigned to the record room.”

5. The complainant filed revision petition before the Court of Sessions and learned Additional Sessions Judge set-aside the order, Annexure P/4 passed by learned Magistrate, vide order dated 25.9.2013 (Annexure P/5):-

“.... The learned trial Court is directed to pass fresh order on consideration of averments and the evidence already adduced by the complainant. The revisionist/complainant and his counsel are directed to appear before the learned trial Court on 10.10.2013. With these observations, the present revision petition is hereby disposed of. A copy of this judgment alongwith trial Court record be sent back. Revision file be consigned to the Record Room.”

6. Thereafter, learned Magistrate passed the order dated 3.7.2014 (Annexure P/6) for summoning of accused persons in this case. The present petition has been filed by the persons, who were arrayed as accused in this case, by the complainant.

7. Learned counsel for the petitioners mainly contended that learned Magistrate had dismissed the complaint by passing a detailed

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order dated 23.1.2012 (Annexure P/4) and thereafter learned Additional Sessions Judge passed the order dated 25.9.2013 (Annexure P/5) without issuing any notice to the accused persons though valuable rights had accrued in their favour as per provisions of Section 399 Cr.P.C. and if at all the said order was to be reversed by learned Additional Sessions Judge, notice was required to be issued to the persons who were earlier arrayed as accused in the complaint filed before the Magistrate, but that has not been done and thereafter, learned Magistrate had passed the impugned order.

8. In support of his arguments, reliance was placed on the judgments from Hon'ble Apex Court in **Perumal Vs. Janaki, 2014(1) R.C.R. (Criminal) 851; Sabitri Prasanna Banerjee Vs. Smt. Tanima Banerjee, 2002 (9) Scale 79; Uma Nath Pandey and Ors. Vs. State of U.P. And Anr., 2010 (6) R.C.R. (Criminal) 141.**

9. Learned State counsel as well as learned senior counsel representing respondent No.2 contended that the present petitions are not maintainable at this stage because the filing of complaint is complete misuse of process of law. In fact, the Complaint and the orders, which are now being challenged in the present cases, were earlier challenged by petitioners, Atma Ram by filing CRM-M-29889-2014 and Sahab Singh, Ram Singh and Ram Karan by filing CRM-M-34198-2014. Therefore, the petitions are liable to be dismissed being not maintainable.

10. 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 since the matter regarding quashing of complaint and orders impugned in these three petitions has since been adjudicated upon

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by this Court in **CRM-M-29889-2014** and **CRM-M-34198-2014** and the said petitions stand dismissed vide order dated 12.12.2014, the same controversy cannot be re-agitated by the petitioners by filing the present petitions. This Court while dismissing the above said two petitions vide common order dated 12.12.2014, observed as under:-

“ Hence, in view of the Supreme Court judgments discussed above, the private complaint made by the respondent could not be dismissed on the ground that there was a bar under Section 195 sub clause 1 of the Cr.P.C. The documents in the present case are forged and fabricated affidavits of Sheo Ram and Jagir Singh which had been given in the trial of FIR No. 139 dated 9.12.2008, in which the complainant was acquitted Thus two documents had been prepared before they were submitted in the trial Court. Hence the forgery was committed not in the Court proceedings but had committed outside the Court before its presentation in the trial Court in the complaint. Hence, the private complaint was maintainable and the order dated 25.9.2013 does not require any interference with regard to the objection. Respondent has availed the remedy of revision and a second revision is not maintainable, hence the same is liable to be rejected.

In view of all discussed above, there is no merit in the petition and the same is dismissed.”

11. The main plea taken by learned counsel for the petitioners is that learned learned Additional Sessions Judge while setting aside order dated 25.09.2013 did not issue notice to the petitioners and straightway allowed the revision petition without giving any opportunity of hearing, though they were the aggrieved persons. However, this plea was also taken by the petitioners in their earlier petitions. For facility of reference, relevant Para No. 9 from **CRM-M-29889-2014** titled **Atma Ram Vs. Ishwar**

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Singh is extracted below:-

“9. That the Ld. Addl. Sessions Judge, while setting-aside the order dated 25.09.2013, did not issue the notice to the petitioners and straightway allowed the revision petition filed by the respondents without giving an opportunity of hearing to the petitioners whereas in the present case the petitioners were aggrieved persons and were necessary parties before deciding the case so the notice must be issued to all the parties as the same is mandatory provision but the Ld. ASJ, Mohali decide the matter at the back of the petitioners and set-aside the order dated 23.01.2012 without issuing the notice to the aggrieved persons, i.e. petitioners.”

12. The petitioners have sought to justify their stand to challenge the aforesaid orders and the complaint, Annexure P/3 by projecting that the aforesaid two petitions, i.e. CRM-M-29889-2014 and CRM-M-34198-2014 were dismissed on technical grounds by this Court and now the petitioners are assailing the impugned orders once again on merits.

13. Identical matter was before the Co-ordinate Bench of this Court in **Subhash Chander Vs. State of Punjab, 1994(1) R.C.R. (Criminal) 392** wherein this Court observed as under:-

“..... The petitioner cannot be permitted to invoke inherent powers of this Court time and again for quashing the same report and orders when there is no change in circumstances, simply by canvassing that he has now added another plea. The inherent powers are meant to be exercised with circumspection when there is reason to believe that process of law is being misused to harass a person. The trial Court after considering all the facts and circumstances of the case and being prima facie satisfied charge-sheeted the petitioner. The second petition under Section 482 Criminal Procedure Code is not entertainable and is dismissed on this ground alone.”

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14. In view of the above discussion, as the matter stands adjudicated upon and dismissed by this Court in earlier round of litigation, the petitioners cannot be allowed to re-agitate and challenge the same orders and Complaint which were subject matter of earlier petitions filed by them. Resultantly, the present petitions stand dismissed being not maintainable.

(SHEKHER DHAWAN)
JUDGE

July 26, 2019

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