

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 12102 of 2013 (O&M)
Date of Decision: 11.2.2020

Meena Mandal and others

.....Petitioners

Versus

Santosh Devi

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. S.S.Gill, Advocate
for the petitioners.

Mr. Pankaj Bali, Advocate
for the respondent.

HARNARESH SINGH GILL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of complaint bearing No. 241/08 dated 25.7.2008 titled 'Santosh Devi versus Meena Mandal and others' and all the consequent proceedings arising therefrom, including the summoning order dated 10.7.2012 (Annexure P-2) and order dated 16.3.2013 (Annexure P-3) vide which non-bailable warrants were issued qua petitioners No. 3 and 4.

Petitioner No. 1 Meena Mandal (since deceased) was a Popular Social Worker, petitioner No. 2 is the husband of petitioner No. 1, petitioner No. 3 is brother of petitioner No. 2 and petitioner No. 4 is the brother of petitioner No. 1.

The complaint dated 25.7.2008 under Sections 420, 406, 120-B, 506 IPC was filed by respondent Santosh Devi on the allegations that accused persons insisted her to arrange a vehicle for accused No. 1 and assured her to get a job to her son-in-law. On this assurance, the

complainant bought a Mahindra Scorpio vehicle on installments and handed over the same accused No. 1. Accused No. 1 also promised to pay Rs. 30,000/- as rent of vehicle which was paid only for four months.

It is also alleged that the accused persons insisted Indraj, father of son-in-law of the complainant to arrange a residential house and assured him to adjust all his children in the Government service. Accordingly, he arranged a sum of Rs. 13,00,000/- after borrowing the same from various persons for the purpose of purchasing a residential house for accused No. 4. Accordingly, an agreement for purchase of house was entered into and a sum of Rs. 1,00,000/- was paid by Indraj to the vendor and the remaining sale consideration of Rs. 11,00,000/- was paid by him at the time of execution and registration of sale deed on 28.2.2006.

It is further alleged that to get the job in Police department, one Pardeep , who is a relative of the complainant, paid a sum of Rs. 4,00,000/- to accused No. 2 and 3 through accused No. 4 but neither he got the job till date nor his money was returned.

Learned counsel for the petitioners has argued that without any supporting material, the complaint has been filed. No receipt of the vehicle has been placed on record nor any cognizable offence is made out and the process has been issued in a mechanical manner. Rather, the complainant is guilty of serious criminal offence falling under the Prevention of Corruption Act. He further submits that the trial Court has not conducted any enquiry under Section 202 Cr.P.C. before issuing the process. Rather the matter has been settled with the complainant and her relative Indraj who has executed an affidavit on 4.9.2008. Thus, the complaint and the summoning order is result of miscarriage of justice.

Learned counsel for the respondent has argued that the present petition is not maintainable against the summoning order as revision could have been filed in the Court of Sessions. It is further argued that evidence of CW1 to CW5 are corroborated with the documentary evidence i.e. Ex.C1 to Ex. C10 and the Magistrate has initiated the process under Section 204 Cr.P.C. Since the accused persons are influential persons, the police did not take appropriate legal action and hence, the present complaint was filed. Rather the accused have no respect of law and that is why non-bailable warrants have been issued against petitioners No. 3 and 4. Learned counsel further submits that the misleading and cheating done by the accused with the complainant is apparently clear and the accused have connived with each other and with their evil designs have cheated the complainant. He has relied upon the judgment passed by the Apex Court in ***Chilakamarthi Venkateswarlu and another versus State of Andhra Pradesh and another*** 2019 (5) R.C.R (Criminal) 968

I have heard the learned counsel for the petitioners and the learned counsel for the respondent and with their able assistance, I have gone through the documents on the file.

In ***Chilakamarthi Venkateswarlu's*** case (*supra*) the Apex Court has held that the power under Section 482 Cr.P.C. should not be exercised to stifle legitimate prosecution and further held as under:-

“14. For interference under Section 482, three conditions are to be fulfilled. The injustice which comes to light should be of a grave, and not of a trivial character; it should be palpable and clear and not doubtful and there should exist no other provision of law by which the party aggrieved could have sought relief.

15. In exercising jurisdiction under [Section 482](#) it is not permissible for the Court to act as if it were a trial Court. The Court is only to be *prima facie* satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate materials and documents on record, but it cannot appreciate the evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

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23. In this case, the High Court rightly refused to quash the criminal complaint, observing that it can exercise power under [Section 482](#) of the Cr.P.C only in rare cases. The power to quash the proceedings is generally exercised when there is no material to proceed against the Petitioners even if the allegations in the complaint are *prima facie* accepted as true. The High Court in effect found, and rightly, that the allegations in the complaint coupled with the statements recorded by the learned Magistrate had the necessary ingredients of offences under [Sections 307, 323, 427, 447 and 506\(2\)](#) read with [Section 34](#) of the IPC.”

Section 482 Cr.P.C. empowers the Court to exercise its inherent powers to prevent abuse of the process of the Court. In proceedings instituted on complaint exercise of the inherent power to quash the proceedings is called for only in cases where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance is taken by the Magistrate, it is open to the Court to quash the same in exercise of the inherent powers under Section 482 Cr.P.C.. It is not, however, necessary that there should be a meticulous analysis of the case, before the trial to find out whether the case would end in conviction or not.

If it appears on a consideration of the allegations, in the light of the

statement on oath of the complainant that ingredients of the offence are disclosed, and there is no material to show that the complaint is mala fide frivolous or vexatious, in that event there would be no justification for interference by the High Court.

The trial Court after going through the complaint as well as evidence led before it, rightly summoned the petitioners. The disputed questions of facts can be proved before the trial Court. The judgment relied upon by the learned counsel for the respondent is applicable to the present case.

Keeping in view the above, no interference by this Court is called for.

The petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

February 11, 2020
Gurpreet

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