

**206-A IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-8690-2020 (O&M)

Date of decision : 26.04.2022

Ranjit Singh

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Navjeet Singh, Advocate for the petitioner.
Mr. Dhruv Dayal, Sr.DAG., Punjab.

Mr. L.M.Gulati, Advocate for respondent No.2.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.26/2 dated 02.05.2013, titled as “Kuldeep Singh Vs. Darshan Singh and others” filed under Sections 500, 501, 504 and 506 read with Section 120-B IPC, and summoning order dated 18.12.2017 (Annexures P-1 and P-5, respectively) as well as decision dated 31.01.2020 (Annexure P-6), whereby the revisional Court has further upheld the summoning order passed by the trial Court.

The facts in brief leading to the petition are that the complainant- Kuldeep Singh (respondent No.2) filed a criminal complaint, wherein it was alleged that the accused Darshan Singh had given his ten acres of land situated in village Bhutta, Tehsil and District Ludhiana, on chakota to the complainant, who was in cultivating possession of the same, but later on accused sold it to a third party and dispute between them arose. The accused No.1/Darshan Singh filed two complaints and out of those, one complaint dated 01.05.2011 addressed to Commissioner of Police, Ludhiana, was inquired into and was

found to be false, whereas other complaint dated 02.03.2012 addressed to Assistant Executive Engineer and J.E. of PSPCL (accused Nos.3 and 4, respectively), was sent to Police Station Dehlon, District Ludhiana for registration of criminal case, whereupon, FIR No.40 dated 24.04.2012 was registered. However, the same got cancelled through cancellation report dated 10.07.2012 after detailed investigation by police team, but the accused persons had put their best efforts to defame the complainant by publishing the false news of theft against complainant in newspaper on 26.04.2012 highlighting that Assistant Executive Engineer of PSPCL/accused No.3 got criminal case registered against the complainant. As per allegations, the accused distributed the copies of the newspaper, copy of FIR and complaints in complainant's village and office and described complainant as thief and fraud person and complainant's respect and reputation got lowered down by these defamatory imputations. The purpose behind this was to evict the complainant from the property and they also warned the complainant not to take any legal action against them. On these broad allegations, the complainant sought prosecution of the accused persons for the alleged commission of offence of defamation and criminal intimidation etc.

In support of the complaint, the complainant examined himself as CW-1, Jagir Singh as CW-2 and Kishan Bhardwaj as CW-3 and also tendered documentary evidence i.e. Ex.C-1 enquiry report made by SHO P.S.Dehton, Ex.C-2 enquiry report made by ADCP-II, Ex.C-3 Copy of complaint, Ex.C-4 copy of complaint dated 02.03.2012 addressed to accused No.3 and 4, Ex.C-5 copy of FIR No.4 dated 24.04.2012, Ex.C-6 and Ex.C-7 vide which FIR No.40 dated 24.04.2012 was cancelled vide report dated 18.05.2012, Ex.C-8 vide which FIR was cancelled by the police on 25.07.2012 and Ex.C-9 copy of

newspaper. The trial Court upon considering the pre summoning evidence, issued process against all the accused persons vide order dated 18.12.2017 for alleged commission of offences punishable under Sections 499, 500 and 34 IPC.

Aggrieved against the order dated 18.12.2017 (Annexure P-5), the petitioner-Ranjit Singh preferred revision petition, however, the same was dismissed vide impugned order dated 31.01.2020 (Annexure P-6). Hence this petition.

Learned counsel for the petitioner has argued that the complainant-Kuldeep Singh has falsely implicated the petitioner through the impugned complaint and the trial Court has passed the summoning order mechanically without examining the contents of the complaint or the material on record, much less by recording satisfaction that a *prima facie* case is made out to issue process against the accused. Learned counsel has argued that in fact complainant-Kuldeep Singh had dispute with his landlord Darshan Singh (co-accused) and civil litigation between them was going on, when a case FIR No.40 dated 24.04.2012, under Section 420 read with Section 120-B IPC was got registered against the complainant at the instance of Assistant Executive Engineer, Punjab State Power Corporation Ltd.Sub Division Village Sarih, Alamgir (herein after referred as PSPCL), but when the said FIR was cancelled after investigation, the respondent/complainant filed the impugned complaint alleging commission of defamation offence. According to him, since the petitioner-Ranjit Singh was neither the complainant in subject FIR, nor involved in the prosecution of respondent No.2-Kuldeep Singh through the said FIR, therefore, the alleged defamation cannot be attributed to him and he has been falsely implicated being general power of attorney of Darshan Singh.

Learned counsel further argued that the other accused person, namely, Darshan Singh with whom the complainant had a dispute had already expired during the pendency of the petition, therefore, the prosecution of the petitioner in a complaint case would be a futile exercise. He has argued that even if, the entire material on record is taken to be true on its face value, no offence would be made out against the petitioner, however, despite that, the revisional Court failed to exercise the jurisdiction vested in it and dismissed the revision petition. He prays for quashing of the complaint dated 02.05.2013 and the impugned orders dated 18.12.2017 and 31.01.2020, respectively.

Learned counsel for respondent No.2/Kuldeep Singh has argued that as the complainant was falsely implicated in case FIR No.40 dated 24.04.2012, therefore, after cancellation of the FIR, he had a valid cause of action to prosecute the accused persons. According to him, after registration of the case, the accused persons in connivance with each other distributed the copies of FIR in the city to various persons and this news was also got published by them in newspaper and this had tarnished his reputation, therefore, the allegations in the complaint disclosed the necessary ingredients to constitute the offence punishable under Sections 499 and 500 IPC. He submits that allegations in the complaint were supported with documentary material and after considering the same, the trial court had issued the process, finding the material on record sufficient to suggest *prima facie* commission of the alleged offences. According to Mr. Gulati, learned counsel, the summoning order was further upheld by the revisional Court and, therefore, the present petition is not maintainable, as it amounts to second revision in the garb of petition under Section 482 Cr.P.C. He prays for dismissal of the petition.

Learned counsel for the parties have been heard and with their

assistance, I have gone through the case file carefully.

After hearing learned counsel for the parties and considering the record of this case, this Court finds that the entire case of the complainant is based upon his alleged false implication in case FIR No.40 dated 24.04.2012, as by virtue of registration of FIR, his reputation was soiled as the news regarding registration of the case was published in newspaper-Dainik Jagraon and the copies of the same were distributed to the other residents of the area. A perusal of the FIR (Annexure P-1) shows that the prosecution of complainant-Kuldeep Singh was launched by Assistant Executive Engineer, Punjab State Power Corporation Ltd., Sub Division Village Sarih, Alamgir, on the ground that the land belonging to Darshan Singh was taken on lease by him and Gurnam Singh and at that time, the electricity transformer installed therein having 6.3 KVA strength, was later on enhanced to 10 KVA without the knowledge of the complainant department. Subsequently, the transformer installed at the land was replaced by an old transformer by the complainant-Kuldeep Singh and for this embezzlement, his prosecution was initiated. However, after completion of investigation, a cancellation report was filed, but there is nothing on record to indicate that petitioner-Ranjit Singh was involved in initiating the process of prosecution against the complainant based upon the FIR.

Further, a reading of the impugned complaint also shows that the complainant has not levelled any specific allegations against the petitioner, who has been implicated only on the ground that he was general power of attorney holder of the land owner- Darshan Singh and qua him, the complaint not only lacks material particulars, but contains vague allegations and Judicial Magistrate proceeded to pass the summoning order in a cryptic manner

without recording the required satisfaction that *prima facie* the alleged commission of offence is made out. Apart from it, even if, it is believed that there was wide reporting in print media relating to registration of FIR, the same was only objective reporting by news-paper, therefore, for this circumstance, the petitioner cannot be blamed. Repeatedly, this Court as well as the Hon'ble Supreme Court have expressed concern over such casual approach, whereby Magistrates proceed to pass the summoning order against the accused persons without applying the judicial mind and in this regard, reference can be made to the judgment passed by the Hon'ble Supreme Court in **“S.W. Palanitkar Vs. State of Bihar”, 2001 (4) R.C.R. (Criminal) 572.**

The relevant observations are extracted below:-

“23. Many a time, complaints are filed under Section 200 Criminal Procedure Code, 1973 by the parties with an oblique motive or for collateral purposes to harass, to wreck vengeance, to pressurize the accused to bring them to their own terms or to enforce the obligations arising out of breach of contract touching commercial transactions instead of approaching civil courts with a view to realize money at the earliest. It is also to be kept in mind that when parties commit a wrongful act constituting a criminal offence satisfying necessary ingredients of an offence, they cannot be allowed to walk away with an impression that no action could be taken against them on criminal side. A wrongful or illegal act such as criminal breach of trust, misappropriation, cheating or defamation may give rise to action both on civil as well as on criminal side when it is clear from the complaint and sworn statements that necessary ingredients of constituting an offence are made out. May be parties are entitled to proceed on civil side only in a given situation in the absence of an act constituting an offence but not to proceed against the accused in a criminal prosecution. Hence before issuing a process a Magistrate has to essentially keep in mind the scheme contained in the provisions of Section 200-203 of Criminal Procedure Code keeping in mind the position of law stated above and pass an order judiciously and not mechanically or in routine manner.”

Besides, during the pendency of the case, co-accused Darshan

Singh has expired and qua him the proceedings have abated and though the

accused Ranjit Singh had filed a revision petition before the Additional Sessions Judge, Ludhiana, but the revisional Court also dismissed the petition. The revisional Court in the impugned order has specifically noticed that in the news-paper report dated 26.04.2012, the FIR was lodged at the instance of official of PSPCL and despite this observation, the revisional Court refused to exercise the jurisdiction vested in it to correct the error committed by Judicial Magistrate in summoning the petitioner as an accused. During the course of hearing also, learned counsel for the complainant is unable to highlight any piece of evidence on record to suggest the involvement of the petitioner in the alleged crime, therefore, this Court finds it be a fit case for exercise of inherent powers under Section 482 Cr.P.C.

Resultantly, the petition is allowed and complaint bearing No.26/2 dated 02.05.2013 (Annexure P- 4) as well as the orders dated 18.12.2017 and 31.01.2020 are quashed qua the the petitioner.

(MANOJ BAJAJ)
JUDGE

26.04.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No