

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

**CRM-M-19419-2015
Date of decision : 18.11.2022**

Kul Bhushan Agnihotri

..... Petitioner

versus

Abhey Ram Saini and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vivek Khatri, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

Present petition has been filed against the order dated 04.05.2013 passed by learned JMIC, Hisar (Annexure P-1), whereby the complaint filed by the petitioner against the respondent for offence punishable under Section 500/120-B of IPC was dismissed and the order dated 23.03.2015 passed by the learned Sessions Judge, Hisar (Annexure P-2) affirming the said order.

2. As per the averment in the complaint, it was alleged that the petitioner has a proprietorship concern which was engaged in construction. The concerned was allotted work for construction of international girls hostel at CCSHAU, Hisar.

3. Qua the said work, complainant alleges that false allegations were attributed and the same were published by the respondent in Hindi newspaper "Aaj Samaj", Hisar edition with an intent to defame. Trial Court found that the evidence led by the petitioner was not only discrepant but was inherently contradictory and thus dismissed the complaint. In revision, the Sessions Court found as under:-

- “11. It is own case of the complainant that he had paying commission to the accused no.1 to 3 at the time of paying bills and when he stopped paying the commission to the accused no.1 to 3 he was involved in a false case by accused in conspiracy with each other. In this regard it is pertinent to mention here that complainant himself has admitted that he was paying commission to the accused no.1 to 3 which was against the law. Thus, the act and conduct of the complainant was against the law. As and when accused no. 1 to 3 had taken commission from him he should have taken action against the accused but he had not done so. Even he had recorded his conversation with Sham Lal Clerk, office of Executive Engineer, HAU, Hisar in a CD regarding his paying commission to the accused but no action has been taken by the complainant against the accused. He had kept that CD with him. He could have lodged F.I.R. on the basis of CD if it was true against the accused but he has not done so. Meaning thereby complainant himself was involved in unlawful activity of paying commission to the accused. Further in this case, there is no prima facie evidence against the accused that they had conspired together.
12. So far as letter Ex. P4/P8 is concerned, it is the details of stolen articles prepared by accused no.2 and 3. They have not leveled any allegation against the complainant in it. They had merely intimated that the material had been found missing. As regard writing of letter Ex.P3/P9 dated 17.05.2012 by accused no.4 to Incharge, Police Post, CCS HAU, Hisar is concerned, this letter has been sent by accused no.4 in discharge of his official duties.

13. Now turning to writing of letter Ex. P2/P7 dated 14.05.2012 written by accused no.1 to accused no.4. In this regard it is pertinent to mention here that accused no.4 wrote a letter Ex. P10 dated 29.05.2012 stating therein that stolen articles have been recovered. This letter rather shows that accused no.1 and 4 had acted bonafidely when the articles were recovered and separate proceedings are being initiated against the complainant. Had there been any grudge against the complainant of accused no.1 to 4, they would have not withdrawn the allegations vide letter Ex.P10 dated 29.05.2012 and if the material was recovered they could have got it concealed and the case would have remained pending against the complainant. So, the entire evidence led by the complainant shatters the case of complainant and as such the case law of Tarlok Nath's case (supra), Gambhirsinh R. Dekare's case (supra), M.N. Damani's case (supra) and Manju Kohli's case (supra) are not attracted to the facts of present case.”

4. Principles with respect to exercise of jurisdiction of Section 482 Cr.P.C. is well settled by the Apex Court in ***Inder Mohan Goswami vs. State of Uttaranchal (2007) 12 SCC 1***, wherein the Court observed as under:-

“23. This court in a number of cases has laid down the scope and ambit of courts powers under [section 482](#) Cr.P.C. Every High Court has inherent power to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under [section 482](#) Cr.P.C. can be exercised:

- (i) to give effect to an order under [the Code](#);
- (ii) to prevent abuse of the process of court, and
- (iii) to otherwise secure the ends of justice.

24. Inherent powers under [section 482](#) Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute.”

5. Apex Court further in the case of **Vakil Prasad Singh vs. State of Bihar** reported as **(2009) 3 Supreme Court Cases 355** held as under:-

“xx xx xx

It would be appropriate to notice the circumstances and the parameters enunciated and reiterated by this Court in a series of decisions under which the High Court can exercise its inherent powers under Sections 482 Criminal Procedure Code to prevent abuse of process of any Court or otherwise to secure the ends of justice. The power possessed by the High Court under the said provision is undoubtedly very wide but it has to be exercised in appropriate cases, *ex debito justitiae* to do real and substantial justice for the administration of which alone the courts exist. The inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice.”

6. Counsel for the petitioner has not been able to point out any infirmity that would warrant interference by this Court while exercising jurisdiction under Section 482 Cr.P.C.

7. Consequently, the present petition is order to be dismissed
being without merit.

(PANKAJ JAIN)
JUDGE

18.11.2022
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No