

CRM-M-24800-2022

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

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Date of decision:27.10.2022

Avtar Singh

...Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Dinesh Kumar Prajapati, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Challenge in the present petition is to the order dated 24.02.2022 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, SBS Nagar, in criminal Complaint No.31 dated 07.05.2018, titled as 'Avtar Singh Vs. Deepak Chauhan and others', whereby complaint filed by the petitioner-complainant against respondents No.2 to 11, has been dismissed.

The petitioner filed a complaint under Sections 211 and 500 IPC against respondents No.2 to 11 with the averments that false implication of the petitioner in FIR No.02 dated 05.01.2013, under Sections 419, 468, 505(2), 506 and 507 IPC and Section 66-A Information and Technology Act, 2008 by them, had caused incalculable harm to his reputation and self-esteem.

Learned Judicial Magistrate Ist Class, SBS Nagar, after appreciating the preliminary evidence led by the petitioner, has dismissed the aforesaid complaint, vide impugned order dated 24.02.2022.

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Learned counsel for the petitioner contends that the above-noted FIR was registered against the petitioner with the allegations that he had sent an e.mail threatening respondent No.2; that however on the basis of evidence led in that FIR, trial Court had acquitted the petitioner, vide judgment dated 12.02.2016 and that the private respondents falsely implicated the petitioner in that FIR, which had tarnished his image in society at large.

Learned counsel further contends that the trial Court has failed to appreciate the evidence in its right perspective and has committed a grave error while dismissing the complaint.

I have heard the learned counsel for the petitioner.

The trial Court while acquitting the petitioner, vide judgment dated 12.02.2016 in the above-noted FIR, noticed that the prosecution had failed to prove its case beyond the shadow of reasonable doubt. In the judgment dated 12.02.2016, no finding has been recorded by the lower Court that the FIR got registered by Deepak Chauhan, was found to be false. Moreover, there is nothing on record to suggest that the complainant had been defamed due to the registration of the above-noted FIR.

The trial Court has rightly dismissed the complaint filed by the petitioner. A relevant extract of the findings recorded by the trial Court would read as under:

5. *A careful perusal of judgment dated 12.02.2016, passed by Mrs.Gurpreet Kaur, the then Ld.CJM, SBS Nagar in case titled as "State Vs Avtar Singh" as Ex-C1 shows that the said case was got registered by the complainant Deepak Chauhan. It is further evident from Ex-C1 that the accused was acquitted in the said case by giving him benefit of doubt*

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as prosecution has failed to prove its case beyond shadow of reasonable doubt. It is pertinent to mention that the FIR was got registered by Deepak Chauhan to the police authority and thereafter, the challan was presented against the accused in the said case. Filing of FIR to the police authority does not amount to a defamation because Deepak Chauhan approached the lawful authority to register his case. Moreover, the aforesaid act on the part of Deepak Chauhan is covered under exception 8 to section 499 IPC which shows that it is not defamation to prefer an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation. It is also worthwhile to mention that it is nowhere mentioned in Ex-C1 that the case got registered by Deepak Chauhan was found to be false one and due to which accused was acquitted, rather it is revealed from Ex-C1 that the prosecution has miserably failed to prove its case beyond shadow of reasonable doubt and accused was acquitted in the said case by giving him benefit of doubt. Mere acquittal of an accused does not mean that the case got registered against him was based on the false facts.

6. *Furthermore, the explanation 4 appended to section 499 IPC provides that no imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person. Thus to bring the act of the accused within the four corners of the definition of 'defamation', it was required to be proved by the complainant beyond reasonable doubt that accused persons had by their acts made such imputations against the complainant which were intended to harm the reputation of the complainant or which they were in the knowledge that it would harm the*

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reputation of the complainant and his reputation was lowered in the eyes of others.

7. *In this regard, the complainant examined CW2 Bimal Kumar who deposed that due to the filing of the FIR by the accused against the complainant, the reputation of the complainant was lowered in the society. However, CW2 Bimal Kumar had never stated that he also started looking down the complainant after the filing of the FIR against the accused. CW2 Bimal Kumar had only deposed that due to the filing of the FIR by the accused against the complainant, the reputation of the complainant was lowered in the society. CW2 Bimal Kumar did not depose as who were those people in whose eyes, the reputation of the complainant was lowered after filing of the FIR against the complainant. It was incumbent upon the complainant to examine those people in whose eyes, the image of the complainant was lowered and they could have deposed that due to filing of the FIR against the complainant, they had started looking down the complainant. CW2 Bimal Kumar could not depose on behalf of those other people that the image of the complainant was lowered in the eyes of those other people. Therefore, the essential ingredient that the reputation of the complainant was lowered in the eyes of others for proving offence under Section 500 IPC against the accused is also missing in the present complaint. There is nothing available on record which could show that the complainant has been defamed due to filing of FIR by Deepak Chauhan against him.”*

It is pertinent to mention here that summoning of accused in a criminal case is a serious matter. The criminal law cannot be set into motion as a matter of course. In the considered opinion of this Court, the Magistrate while appreciating the evidence in its right perspective, has

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applied the mind to the facts of the case and the law applicable thereto.
Therefore, this Court does not find any merit in the present petition.

Dismissed.

27.10.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No