

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

CRM-M-4734-2016
Date of Decision:-6.9.2022

Gurbax Singh @ Gurbax Lal

... Petitioner

Versus

Shingara Ram

... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by :-

Ms. Sushma Chopra, Advocate
for the petitioner.

None for the respondent.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner/accused seeking quashing of criminal complaint (Annexure P-1) titled Shingara Ram Vs. Gurbaksh Singh filed under Sections 500, 506, 179, 182, 190, 193, 194 IPC and order dated 26.02.2013 (Annexure P-2) passed by the Court of Learned Judicial Magistrate Ist Class, Phillaur, whereby the petitioner/accused was summoned under Sections 500 and 506 IPC and order dated 11.1.2016 (Annexure P-5) whereby the revision petition filed by the petitioner against the aforesaid summoning order was dismissed by the Court of learned Additional Sessions Judge, Jalandhar.

The counsel for the petitioner has submitted that the petitioner is more than 70 years of age and is not keeping good health and he lost his wife just a few days back. The counsel for the petitioner further submitted that son of the petitioner got married with Sonia Rani-niece of respondent-

complainant Shingara Ram but matrimonial dispute arose between them. The counsel for the petitioner further submitted that due to the aforesaid marital discord, respondent-complainant was nursing grudge against the petitioner/accused. The counsel for the petitioner further submitted that on 5.10.2006 at about 9.30 PM respondent and two other uncles of Sonia Rani trespassed into the house of petitioner and threatened to cause harm to him. That on this the petitioner filed suit for permanent injunction to restrain the aforesaid persons from causing any harm to him. The counsel for the petitioner further submitted that the complaint in this regard was also lodged by the petitioner with the police against respondent and two other uncles of Sonia Rani and accordingly proceedings under Section 107/150 Cr.P.C. were initiated by the Court of Sub Divisional Magistrate Phillaur against the said three persons. The counsel for the petitioner while referring to Annexure P-4 submitted that subsequently the matter was compromised between the parties and as such the petitioner had not led any evidence in the aforesaid civil suit and finally the same was dismissed by the Court of Civil Judge (Junior Division) Phillaur vide judgment dated 5.2.2008. The counsel for the petitioner further submitted that even the proceedings initiated under Section 107/150 CrPC were terminated by the court concerned, as the matter stood compromised between the parties, as is evident from order dated 30.11.2006, (Annexure P-3).

The counsel for the petitioner further contended that the respondent filed impugned complaint, Annexure P-1, against the petitioner in which he alleged that the aforesaid civil suit and proceedings under Section 107/150 CrPC were initiated by the petitioner to lower down the

image of respondent in the eyes of his family members, relatives and general public. The counsel for the petitioner further submitted that after recording of preliminary evidence wherein the respondent himself appeared in the witness box as CW1 and examined CW2 Gurdial Singh and CW3 Joginder Singh, the learned trial court mechanically summoned the petitioner under Sections 500 and 506 IPC without any application of mind. The counsel for the petitioner further submitted that the revision petition filed by the petitioner against the aforesaid summoning order also met the same fate.

The counsel for the petitioner further submitted that the aforesaid criminal complaint, Annexure P-1, summoning order, Annexure P-2 and order passed by the Revisional Court, Annexure P-5, deserve to be quashed. The counsel for the petitioner further submitted that respondent has failed to establish that the aforesaid civil suit and proceedings under Section 107/150 Cr.P.C. were instituted by the petitioner against respondent with a *mala-fide* intention to harm the reputation of respondent. The counsel for the petitioner further submitted that in the complaint Annexure P-1, no specific allegations were raised by respondent with regard to the offences punishable under Sections 500 and 506 IPC. The counsel for the petitioner further submitted that there was no intention on the part of the petitioner to cause any harm to anyone by initiating civil as well as criminal proceedings against respondent. The counsel for the petitioner further submits that there was a genuine cause for the petitioner to file the civil suit and to initiate criminal proceedings against respondent, as he along with his two other relatives trespassed into the house of petitioner and extended threats to cause

harm to him. The counsel for the petitioner further submitted that in the present case element of *mens-rea* is totally missing. That the impugned complaint amounts to misuse of the process of Court and thus, deserves to be quashed and consequently, the summoning order and the order passed by revisional court are also unsustainable in the eyes of law.

I have heard the counsel for the petitioner and gone through the available record.

The impugned complaint Annexure P-1 is result of the civil suit dated 10.10.2006 and the criminal proceedings under Section 107/150 CrPC instituted by the petitioner. Admittedly, the aforesaid civil suit was dismissed by the Court of Civil Judge (Junior Division) Phillaur vide judgment dated 5.2.2008 (Annexure P-4). From the bare perusal of the same it appears that the said civil suit was filed by the petitioner alleging that on 5.10.2006 at about 9.30 PM respondent along with his two relatives trespassed into his house and started abusing the petitioner and also gave threats to him and there being fear in the mind of petitioner, he approached the Civil Court to restrain respondent and other persons from causing any harm to him and further restraining them from extending threats to him. It transpires that in the aforesaid civil suit, which was contested by the respondent and other defendants, the parties had not led any evidence and finally the said civil suit was dismissed and both the parties were left to bear their own costs. From the perusal of Annexure P-4, it appears that the Civil Court did not give any findings that the said civil suit was instituted by the petitioner by leveling false allegations against the respondent and other defendants. Also there is nothing available on record to show that the petitioner made scandalous

allegations in the said civil suit against respondent , which caused harm to the reputation of respondent in the eyes of his relatives, friends and general public. Even no such scandalous allegations were leveled by the petitioner while initiating proceedings under Section 107/150 CrPC against respondent . From the perusal of Annexure P-3 it appears that the proceedings under Section 107/150 CrPC were dropped by the Court of Sub-Divisional Magistrate Phillaur vide order dated 30.11.2006 as the family dispute was amicably resolved by the parties.

The fact that son of petitioner was having marital discord with Sonia niece of respondent , has not been refuted in any manner in the present case. Thus, making it clear that respondent was having animosity with the petitioner.

Furthermore, to constitute an offence of defamation under Section 499 IPC, there has to be imputation and it must have been made in the manner as provided in the Section itself with the intention of causing harm or having reason to believe that such imputation will harm the reputation of the person about whom it is made. Thus causing harm to the reputation of a person is the basis on which the offence under Section 499 IPC is founded and mens-rea is a condition precedent to constitute the said offence.

In the instant case the respondent has failed to prima facie establish that the aforesaid civil and criminal proceedings were falsely initiated by the petitioner with mala-fide intention to cause injury to the reputation of respondent .

In the impugned complaint Annexure P-1, respondent alleged that in the civil suit, which was decided vide judgment dated 5.2.2008, the

petitioner adduced false evidence with intention to cause loss to the reputation and dignity of respondent in the eyes of the general public. It was also alleged in the complaint Annexure P-1 that the accused gave false information, which resulted in initiation of proceedings under Section 107/150 Cr.P.C. against respondent. In the instant case, respondent has *prima facie* failed to establish that any false evidence was led by the petitioner with intention to cause harm to the reputation of respondent in the eyes of general public. There is also nothing on the record to *prima facie* establish that any false information was given by the petitioner which resulted in initiation of proceedings under Section 107/150 Cr.P.C. In view of the matter, the respondent has failed to establish that due to aforesaid acts on the part of the petitioner, the reputation of respondent was lowered down in the estimation of the general public. So respondent has *prima facie* failed to establish its case under Section 499 read with Section 500 IPC against the petitioner.

Further in the impugned complaint Annexure P-1 no specific date, month and year was given by respondent, when he was criminally intimidated and injury to his reputation was caused by the petitioner. So this Court is of the view that in the absence of any specific instance and allegations, respondent has failed to establish *prima facie* case under Section 506 IPC against the petitioner.

In **Indian Oil Corporation Vs. M/s NEPC India Limited, (2006)6 SCC 736**, the Hon'ble Apex Court held that (i) a complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not *prima facie*

constitute any offence or make out the case alleged against the accused; (ii) a complaint may also be quashed where it is a clear abuse of the process of the Court, as when the criminal proceeding is found to have been initiated with *mala fide* / malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

It is well settled that the inherent powers under Section 482 Cr.P.C. to quash FIR are to be used sparingly and with abundant caution to remove injustice.

In the light of the above, while coming to the facts of the present case as no *prima facie* case is made out against the petitioner, even if the allegations made in criminal complaint (Annexure P-1) are taken at their face value and accepted in entirety. Thus in the instant case, the continuance of criminal proceedings against the petitioner on the basis of criminal complaint (Annexure P-1) and summoning order (Annexure P-2) would be nothing but an abuse of the process of Court.

For the forgoing reasons, the present petition is allowed and criminal complaint 4.9.2009 (Annexure P-1) titled as Shingara Ram Vs. Gurbaksh Singh and all the subsequent proceedings arising therefrom are hereby quashed qua the petitioner.

(KARAMJIT SINGH)
JUDGE

6.9.2022
Gaurav Sorot/P. Chawla

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