

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226

CRM-M-42264-2021
Date of Decision: 24.11.2022

Purshotam

..... Petitioner

Versus

Kailash Chand

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. S.K. Tripathi, Advocate
for the petitioner.

Mr. Mukesh Kumar Verma, Advocate
for the respondent.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through the instant petition under Section 482 Cr.P.C., is seeking quashing of order dated 16.07.2021 (Annexure P-3), whereby learned ASJ, Rewari, has dismissed revision of the petitioner and upheld order dated 12.06.2018 passed by JMIC, Rewari.

The facts emerging from the record are that the petitioner received first summon/notice from civil court in a case titled as “Kailash Chand Vs. Purshotam” in month of October, 2013. This summons was duly issued by trial Court on 07.10.2013 for the appearance of present petitioner on 29.11.2013. The petitioner in the month of November 2013 received another summon in the same case duly issued by trial Court on 08.11.2013 directing the petitioner to appear before trial Court on 29.11.2013. The copies of complaints annexed with the summons were found different. The petitioner noticed that with different summons, different complaints have been enclosed. There was cuttings/alterations in the plaint submitted in the

Court. The petitioner filed a complaint under Section 193 read with Section 191 Cr.P.C. and Section 209 IPC alleging that respondent has manipulated the things to make the necessary changes in the documents of the Court after their submissions in the Court. It was further alleged that the intent of the plaintiff was to take advantage of the situation and to deprive the present petitioner from the knowing actual facts and figures.

Learned Trial Court vide order dated 12.06.2018 came to a conclusion that no offence is made out, thus, application under Section 195/340 Cr.P.C is not maintainable. The Court found that main civil suit has already been decided and nothing has been found as false evidence qua the summons and copies of plaints in dispute by the civil court in its judgment. Mere annexing of different plaints with the summons received on different dates does not amount to false or fabricated evidence.

The petitioner feeling aggrieved from order dated 12.06.2018 passed by learned trial court preferred a revision petition before sessions court which came up for consideration before learned ASJ, Rewari, who vide order dated 16.07.2021 has dismissed the petition. The findings recorded by learned ASJ read as:-

“ 9. Parties to the petition are real brothers. It has also come into my notice that the are entangled in multifarious litigations, both criminal and civil, against each other. It is nowhere proved as to how could plaintiff Kailash Chand manage to procure summons before even filing of the suit in the Court. It is not the case of the petitioner that the sign of the Reader of Court was forged. There could be inadvertent mistake in mentioning the date of issuance on the summons by the

Reader. More so, it is not established that the plaintiff Kailash Chand had made any cuttings on the plaint on the court file after filing of the suit and that too without permission of the Court. Some variations in the copies of complaints annexed with two summons even if taken on its face value, would not justify the prosecution of plaintiff for committing perjury. It is not proved that any tampering was committed with the judicial record nor it is proved that any false evidence has been led by the plaintiff. Also true is the fact that the plaintiff was successful in that suit. Even otherwise, I am of the opinion that it was not expedient in the interest of justice to send the complaint by exercising jurisdiction under Section 340 Cr.P.C.

10. Thus, no illegality or perversity has been brought to my notice warranting interference in the impugned order in exercise of my revisional jurisdiction.

11. Hence, the present revision petition fails and thus, is dismissed. Consequently, the impugned order is maintained and application under Section 195/340 Cr.P.C stands dismissed. Trial Court file along with a copy of this order be sent back. Revision file, after needful, be consigned to the records.”

In the case in hand, the parties are real brothers and present petitioner has lost his case before the Civil Court. The proceedings under Section 195/340 Cr.P.C were initiated with respect to plaint filed in Civil Court and summons served by Civil Suit. There are categorical findings that present petitioner has lost civil suit and there is no fault on the part of

present respondent. Admittedly, two summons were issued and two different complaints were annexed with the summons. The respondent was not found involved in cutting of complaint filed in Court. There was cutting in the complaint, however, there was no fault on the part of present respondent. The respondent did not derive any benefit by the alleged act. It has been found that there was possibility of lapse on the part of Court staff. However, there is no lapse on the part of respondent. The petitioner made allegations against the counsel for the respondent, however, counsel was not made a party. Therefore, there is no substance in the allegations of the petitioner. This Court does not find any infirmity in the orders passed by the Courts below. The orders passed by both the Courts below are reasoned and speaking. The petitioner has failed to point out any valid reason to interfere with orders passed by both the Courts below.

In view of the above, the present petition is dismissed.

(JAGMOHAN BANSAL)
JUDGE

24.11.2022

anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>