

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(122)

CRM-M-41399-2022

Date of decision: - 09.09.2022

Surjit Kaur

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Pushp Jain, Advocate, for the petitioner.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 482 Cr.P.C. of the Code of Criminal Procedure for quashing of Criminal Complaint No.COMI/575/2018 dated 13.06.2018, under Sections 500 and 506 of the Indian Penal Code, 1860 (Annexure P-1) titled as "Charan Singh Supra Vs. Surjit Kaur" pending before the Chief Judicial Magistrate (NRI Court) Jalandhar as well as order dated 30.11.2018 (Annexure P-2) passed by the Chief Judicial Magistrate, Jalandhar and also an order dated 19.07.2022, passed by the Additional Sessions Judge, Jalandhar vide which revision filed by the petitioner has been dismissed.

Learned counsel for the petitioner has submitted that the petitioner was married to respondent No.2 Charan Singh Supra in the year 2010 and they got divorced in the year 2017 and even thereafter, there has been a dispute between the parties and on account of the same, respondent No.2 had filed the present complaint under Sections 500 and 506 IPC. It is further submitted that the video which has been uploaded

by the petitioner is factually correct, inasmuch as, the respondent-complainant, who is claiming to be a doctor, does not have a licence to run a medical shop and is a pharmacist. Counsel for the petitioner has relied upon explanation 4 to Section 499 IPC to contend that the petitioner is not liable for punishment under Section 500 IPC.

This Court has heard learned counsel for the petitioner and has gone through the paper-book.

“Enan bewakoof bana, mai vehkiya nahi, enha akirtghan banda”

Respondent No.2 had filed a complaint under Sections 500 and 506 IPC on the allegations that the complainant was running a chemist shop along with Baljit Kaur under the name and style of “Supra Medicos” and since the complainant was running a chemist shop, the people of the village also called him as Dr. Supra and the present petitioner, who was an NRI, was earlier married to the complainant (respondent No.2 herein) in the year 2010 and they got divorced on 10.02.2017. It is further alleged that the petitioner was a very head strong person and after getting divorced from the complainant/respondent No.2, the petitioner had married one Makhan Singh and she was residing with him. It was further alleged that even after the dissolution of marriage, the petitioner had been constantly harassing and blackmailing the complainant and the petitioner, along with her current husband and their henchmen even wishes to kill the complainant and in order to save his life, the complainant moved an application before the Commissioner of Police, Jalandhar against accused and the others on 24.04.2018 wherein the petitioner undertook that she will not repeat her mistake and the copy

of the compromise effected in the same, has been annexed along with the complaint. It was also alleged that the petitioner started to defame the complainant and from her account on www.youtube.com under her name, Surjit Kaur had uploaded a video for public viewing titled “Surjit Kaur Uk II Dr. Sapra without license medical shop” with description of the video as “*Dr. Sapra jo ki Bachiyen medicine bechda ha ede kol apni shop da licence nahi ha is bande to bach ke raho*”. It was also alleged that the imputations had been intentionally made in the said video by the petitioner for the sole purpose of harming the reputation of the complainant and the said video was viewed by a lot of persons and the same has also been circulated on other social platforms like Whatsapp. It is alleged that the imputations made by the petitioner are false, which have lowered the reputation of the complainant in the eyes of right thinking persons. The details of the link to the said videos has also been specified in para No.4 of the said complaint. It is further alleged that in order to injure the hard earned reputation of the complainant, the false and defamatory imputations had been in the video. Some of the said imputations as mentioned in paragraph 5 of the complaint have been reproduced herein below: -

“Eh banda paise da laalchi”

“insaniat Dr. Sapre vich much gayi, hum India vich aa gyaa, nasheeli dawai, nasheeli capsule vechda”

“Sunnen wale behan te bhrawo, tusi ehto dawayian khande ho, Dr. Sapra change banda nahi hega, nasheliyan dewayi dinda, tusi soch samaj ke jayo”

It has been further alleged that on account of the said video, irreparable damage has been caused to the reputation, character and creditability of the complainant, for which the petitioner is liable. It has

also been alleged that people in the vicinity and relations of the complainant have started holding the complainant in low esteem and further question his character, which has resulted in loss of reputation of the complainant in the eyes of the residents of the locality, friends, relatives and society, at large. In paragraph 8 of the complaint, it has been alleged that the petitioner had threatened the complainant that she would eliminate him and the complainant received threatening calls on his mobile number from various numbers. Even brother of the complainant Kuldeep Singh had received threatening calls on his mobile phone. The Judicial Magistrate 1st Class, after considering the allegations, which have been made in the complaint and also after considering the preliminary evidence led by CW-1 (Charan Singh), CW2 (Kuldeep Singh) and CW3 (Rashpal Singh) had *prima facie* observed that the petitioner, by uploading videos on the social media, is trying to lower down the reputation of the complainant in the society and that she is circulating the videos through whatsapp and facebook, which are the most popular modes by which a person can immediately defame someone in a minute and after considering the same, had summoned the petitioner under Sections 500/506 IPC.

The revision petition challenging the said order filed by the petitioner, was dismissed by the Additional Sessions Judge, Jalandhar, after considering the allegations in the complaint as well as the preliminary evidence led by the complainant. The argument raised by the counsel for the petitioner before the Additional Sessions Judge, Jalandhar, by relying upon explanation 4 of Section 499 IPC, as is sought to be

relied upon by learned counsel for the petitioner before this Court, was rejected, as it was found to be a contention without any merit, specifically in view of the statement of the complainant and other witnesses to the effect that the alleged defamatory video had been uploaded by the petitioner on YouTube and the same had been seen by many other persons and it had also been circulated on other social media platforms and thus, at the stage of summoning, the said contention could not be given much weightage and the version of the petitioner could not be taken to be the gospel truth. It has been further observed that the defence sought to be raised would be considered during the course of the trial and that the order of summoning the petitioner had been passed in accordance with law and deserved to be upheld.

This Court is of the opinion that the order passed by the Chief Judicial Magistrate, Jalandhar as well as the Additional Sessions Judge, Jalandhar are legal and in accordance with law and do not suffer from any illegality or perversity so as to warrant interference under Section 482 Cr.P.C. A perusal of the complaint would show that specific allegations have been levelled against the petitioner to the effect that she had uploaded videos on social media platform in which defamatory imputations had been made against the complainant. The defamatory imputations have been detailed in paras No.4 and 5 of the complaint and have been reproduced herein-above. It is further the specific case of the complainant that the same have lowered his reputation and credibility amongst the respectables of the locality and the right thinking persons of the society, at large. Further specific allegations have been made in the

complaint with respect to there being a threat to the life of the complainant at the hands of the petitioner and her husband and the details of the phone numbers, from which the complainant and his brother Kuldeep Singh have received threatening calls, have also been detailed in para No. 8 of the complaint. Thus, this Court is of the view that *prima facie*, the offences under Sections 500 and 506 IPC are made out on the basis of the allegations levelled in the complaint. The argument raised by learned counsel for the petitioner by placing reliance upon the explanation 4 to Section 499 IPC, is misconceived. For the ready reference, Section 499 is reproduced hereinunder: -

499. Defamation.—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—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, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful."

In the present case, apart from the specific allegations levelled in the complaint, three witnesses have also been produced by the complainant i.e., CW-1 (Charan Singh), CW2 (Kuldeep Singh) and CW3 (Rashpal Singh) and it has been specifically noticed in the impugned orders that the said video has been viewed by lot of persons and has also been circulated on various social media platforms and has thus, lowered the social image/reputation of the complainant. Neither the said observations of the Courts below have been disputed before this Court, nor the evidence of the said witnesses has been produced before this Court to show that there was any perversity in the observations made in the impugned orders. This Court is of the view that reliance upon explanation 4 to Section 499 IPC does not further the case of the petitioner in seeking the quashing/setting aside of the summoning order passed by the Chief Judicial Magistrate, Jalandhar and the order upholding the same passed by the Additional Sessions Judge, Jalandhar. Moreover, any defence plea sought to be raised by the petitioner shall be considered during the course of the trial and the said defence cannot be made a ground, more so, when it is based on the disputed question of facts, in a petition under Section 482 Cr.P.C. for setting aside the summoning order.

Keeping in view the above-said facts and circumstances, the present petition is dismissed and the order dated 30.11.2018 (Annexure P-2) passed by the Chief Judicial Magistrate, Jalandhar as well as order dated 19.07.2022 (Annexure P-3), passed by the Additional Sessions Judge, Jalandhar vide which the revision filed by the petitioner has been

dismissed, deserve to be upheld.

It is further clarified that nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present petition.

September 09, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes