

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-7098-2023

Date of Decision: 09.02.2023

Harinder Kumar Singla

... Petitioner

VS.

Suresh Kumar & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Aakash Singla, Advocate for the petitioner

Sandeep Moudgil, J.

The petitioner seeks quashing of the order dated 30.10.2019 (Annexure P5) passed by CJM, Sangrur whereby the application of the petitioner for initiating action against the respondent under Section 340 CrPC has been dismissed as well as for quashing of the judgment dated 08.08.2022 (Annexure P7) passed by ASJ, Sangrur whereby the appeal against the order dated 30.10.2019 passed by the trial court has been dismissed.

Learned counsel for the petitioner submits that respondent No.1- Suresh Kumar has filed an application under Section 156(3) Cr.P.C for the registration of F.I.R under Sections 379, 380 and 401 IPC against the petitioner, in which, he has raised the false allegations against the petitioner. The Court had not given any directions for the registration of F.I.R against the petitioner but same was treated as criminal complaint and it was registered as complaint no.43 of 09.11.2015. It is in this way, the petitioner was summoned by the Court to face trial for the offence punishable under Section 380 IPC vide order dated 28.07.2016. The petitioner appeared in the said complaint and when the said complaint was pending for evidence, learned counsel for the petitioner as well as petitioner came to know that the judicial file has been

tampered with and in the list of witnesses Sarabjit Singh son of Jaspal Singh was added on which initial was there and date is also mentioned as 08.11.2015 below the initials. The petitioner had applied for all the zimni orders and after inspection, found that no permission was sought by the respondent No.1 or his counsel to get amendment of the list of witnesses. In his cross-examination conducted on 05.07.2018, respondent No.1 Suresh Kumar has admitted that the name of the witness number 7 was added at his instance without any permission or order of the Court. The respondent No.1 in connivance with some unknown persons had committed an offence while tampering the judicial file intentionally.

Learned counsel for the petitioner contended that impugned orders passed by the courts below are based on surmises and conjectures inasmuch, the courts below have given wrong observation that it often happened that some time person make the correction in the original complaint but fail to make the correction in the copy attached with the same. It is proved on the file that respondent without taking any permission from the Court, made an alteration in the complaint. It is also the assertion on his behalf that respondent No.1 while appearing in the witness box as CW-3 in the complaint filed by him has admitted this fact that on the last page of the complaint at serial No.07, the name of the witness was added in hand. He further admitted that under the name of the witness at serial no. 07, there is initial and date is also mentioned. He further admitted that he does not know as per whose order or instance the name of the witness No.07 was added on 08.11.2015, however, the same was added at his instance and the counsel concluded the submissions with the argument that the courts below have totally ignored the evidence adduced on

the file. As and when any judicial record is tampered, then court is duty bound to take *suo motu* action against the said persons. Tempering of judicial file is proved on the file by the documents. As such there was no necessity for examining the number of the witnesses.

Heard learned counsel for the petitioner and gone through the case file.

The petitioner-complainant had filed an application under Section 340 Cr.P.C. for initiating the criminal proceedings against the respondent No.1. It is alleged that respondent No.1 had filed an application under section 156(3) Cr.P.C. for registration of FIR under section 379, 380,401 IPC against the petitioner, in which he has raised the false allegations against the petitioner. The trial Court has not given any directions for the registration of the FIR against the petitioner but the same was treated as criminal complaint bearing No. 43 of 09.11.2015 in which the petitioner was summoned by the Court to face trial for an offence under section 380 Cr.P.C. vide order dated 28.07.2016. The petitioner appeared in the said complaint. When the said complaint was pending for evidence, the learned counsel for the petitioner as well as petitioner came to know that the judicial file has been tampered with and in the list of witnesses Sarabjit Singh son of Jaspal Singh was added and initials alongwith date are there. The petitioner had applied all the zimni orders of the Court and found that no permission was sought by the accused or his counsel for making amendment in the list of witnesses. In his cross examination conducted on 05.07.2018, accused-respondent No.1 has admitted that the name of witness No. 07 was added at his instance without any permission or order of the Court. The respondent No.1, in connivance with some unknown persons,

had committed an offence of tampering the judicial file intentionally. After going through the evidence adduced on the file by the petitioner, the application under section 340 Cr.P.C. was dismissed by the courts below.

Counsel for the petitioner has miserably failed to prove on record that how the impugned orders passed by the courts below are perverse or not according to the settled provisions of law. Admittedly respondent/accused Suresh Kumar filed an application under section 156(3) Cr.P.C. for registration of the FIR under section 379,380,401 IPC against the petitioner/complainant. The only grudge of the petitioner is that in this complaint, which was filed by accused Suresh Kumar, in the list of witnesses, name of witness No.07 Sarabjit Singh son of Jaspal Singh has been mentioned without any permission of the Court on 08.11.2015. The Courts below have rightly held that it often happens that person make the correction in the original complaint but fail to make the correction in the copy attached with the same. There is no doubt in it because it happens in number of cases due to rush of work with the Advocates. The courts below have rightly held that there is nothing on record that the said witness namely Sarabjit Singh examined by the complainant in preliminary evidence is the only one witness on the basis of which complainant was summoned by the learned trial court. Rather after examining the other witnesses and documents adduced on the file, petitioner was summoned in the said complaint. By adding the said witness in the list of witnesses, respondent has not gained any undue benefit and even no prejudice has been caused to the petitioner. There is thus no illegality or irregularity in the impugned orders passed by the Courts below as the petitioner has failed to prove on record that respondent No.1 has tampered the judicial record.

Consequently, there are no merit in this petition and the same is accordingly dismissed being devoid of merit.

Dismissed *in limine*.

09.02.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No