

2023:PHHC:116098

CRM-M-22390-2016 (O & M)
(262)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22390-2016 (O & M)
Date of Decision: 04.09.2023

Zile Singh

... Petitioner

Versus

Joginder Singh and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr.Lajpat Sharma, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for respondent No.4.

JASJIT SINGH BEDI, J.

The present petition has been preferred under Section 482 Cr.P.C. against the order dated 03.10.2015 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Hisar vide which the complaint of the petitioner-complainant has been dismissed and the order dated 22.04.2016 (Annexure P-2) passed by the Additional Sessions Judge, Hisar, vide which the said order (Annexure P-1) has been affirmed.

2. The brief facts of the case are that FIR No.521 dated 27.09.2003 under Sections 148, 149, 323, 452, 506 IPC Police Station City Hisar was registered against Zile Singh (petitioner-complainant), his father-Surat Singh and others at the instance of Joginder Singh-respondent No.1.

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3. On the conclusion of the trial, the Judicial Magistrate Ist Class, Hisar vide judgment dated 17.01.2012 acquitted the petitioner/complainant and his co-accused.

4. Thereafter, the petitioner/complainant filed a complaint under Section 195 IPC against the accused-respondents with the allegations that the accused/respondents had known that, at the time of the alleged incident dated 27.09.2023, which was the subject matter of FIR No.521 dated 27.09.2003, the petitioner/complainant had been admitted in hospital and had been accompanied by his father-Surat Singh, and therefore, as the petitioner-complainant and his father had pleaded *alibi* which plea had been accepted leading to their acquittal, the accused/respondents had committed an offence under Section 195 IPC.

5. Based on the evidence led, the Court of Judicial Magistrate Ist Class, Hisar vide its judgment dated 03.10.2015 came to the conclusion that there was no specific finding recorded by the Court in its judgment of acquittal dated 17.01.2012 to the effect that the accused-respondents had given false evidence against the petitioner/complainant and others. It also held that it was not every acquittal in a criminal case which would result into a subsequent litigation on the same lines as alleged in the instant complaint and the Court had to come to a categorical finding that proceedings under Section 195 IPC were to be initiated and proceed as per Section 195 Cr.P.C. It, thus, dismissed the complaint.

6. The petitioner preferred a revision before the Court of Additional Sessions Judge, Hisar which also came to be dismissed vide judgment dated 22.04.2016.

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7. The aforementioned judgments are under challenge in the present petition.

8. The learned counsel for the petitioner/complainant contends that the impugned judgments were liable to be set aside. In fact, the accused-respondents had initiated prosecution vide FIR No. 521 dated 27.09.2003 knowing that the petitioner-complainant had been admitted in the hospital at the time of the incident and his father-Surat Singh had been accompanying him. Not only had the accused-respondents given false evidence in Court but had also got false statements recorded before the investigating agency. Therefore, the petitioner-complainant was within his rights to institute the instant complaint without resorting to the provisions of Section 195 Cr.P.C. He, therefore, contends that there was sufficient oral and documentary evidence on the record to summon the accused-respondents to face trial.

9. I have heard the learned counsel for the petitioner

10. Before proceeding further, it would apposite to refer to Section 195 Cr.P.C. and the same is reproduced hereinbelow:-

“Section 195 of The Code Of Criminal Procedure, 1973:-

Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1) No Court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

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(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub- clause (i) or sub- clause (ii), except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate”.

11. A perusal of Section 195 Cr.P.C. would show that where false evidence is given in Court then, proceedings can be initiated only on the basis of a complaint in writing by that Court or of some other Court to which that Court is subordinate. No proceeding can be maintained at the instance of a private individual even though he may be the person aggrieved in some manner. In the instant case, no such complaint has been instituted at the instance of the Court.

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Further, in the judgment of acquittal dated 17.01.2012, there is no specific finding of the Court as to the giving of false evidence by the respondents/accused (complainant party in the said prosecution).

Further, merely because the petitioner-complainant was acquitted in FIR No. 521 dated 27.09.2003 would not by itself be a ground to hold that false evidence had been given during the course of proceedings of that case. If such a presumption was to be drawn, then, every case of acquittal in a criminal case would result in a subsequent prosecution of the complainant-party at the instance of a private individual. This kind of practice cannot be encouraged as there would be no end to frivolous litigation.

12. In view of the above, I find no merit in the present petition and the same stands dismissed.

**(JASJIT SINGH BEDI)
JUDGE**

September 04, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No