

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

CRM-M No.30263 of 2017
Date of decision: 20th September, 2023

Bodh Raj

... Petitioner

Versus

State of Haryana & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sandeep Gahlawat, Advocate for the petitioner.

Mr. Gagandeep S. Chhina, Asst. Advocate General, Haryana
for the respondent/State.

Mr. Shamsheer S. Tomar, Advocate for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking quashing of order dated 14.02.2017 (Annexure P-1) passed by learned Sub Divisional Judicial Magistrate, Hansi, District Hisar, vide which the application of respondent No.2 for correction of the name of accused from 'Bhoj Raj' to 'Bodh Raj' was allowed and in consequence thereto, summons issued to the petitioner in criminal complaint No.481-1/2008 titled as 'Mandeep vs. Rajbir & others'.

2. Learned counsel for the petitioner, inter alia, contends that the impugned order dated 14.02.2017 has been passed in blatant violation of the settled principles of law, as a result of which, the petitioner has been gravely prejudiced. Initially, the complainant had impleaded one 'Bhoj Raj' as an accused in the complaint; even the service of summons

and warrants was unsuccessfully attempted on said 'Bhoj Raj', as a result of which he was declared a proclaimed offender. The petitioner was nowhere in the picture either when the complaint was filed or even when service was being attempted upon 'Bhoj Raj'. However, when the complainant failed to locate 'Bhoj Raj', he, with an ulterior motive to wreak vengeance on the petitioner, falsely implicated him in the case in hand, since there was a history of animosity between the petitioner and the complainant's father. Now at a highly belated stage, the complainant/respondent No.2 could not be permitted to introduce the petitioner as an accused, in the complaint in question, under the garb of correction of name.

3. Per contra, learned State counsel assisted by the learned counsel appearing on behalf of the complainant has opposed the prayer and submissions made by the counsel opposite. It has been submitted that the petitioner has not approached this Court with clean hands and has concealed material facts.

4. Learned counsel for the respondent/complainant has asserted that inadvertently, the complainant, while filing the complaint in question, had mentioned the name of the petitioner as 'Bhoj Raj' instead of 'Bodh Raj'. However, it was an apparent inadvertent error, as the rank and place of posting of the petitioner had been rightly mentioned therein. Furthermore, it was also a matter of record that the SHO of the same Police Station, where the petitioner was posted at the time of the alleged crime, had also been named as an accused along with the petitioner in the

complaint. Therefore, it could not be believed and digested that the petitioner would have been unaware about the initiation of criminal proceedings against him.

5. While inviting the attention of this Court to the service reports, (Annexures R-2/3 to R-2/5), learned counsel for the respondent/complainant has contended that the address of the petitioner was rightly mentioned therein, as Village Mundi, PS Khol, Teh. Rewari. However, since service could not be effected on the above said address, in order to execute warrants, the serving official went to the residence of the petitioner in Gurugram, where he met his son Parmod. Petitioner's son, Parmod informed the serving official that his father, i.e. the petitioner, was away to Madhya Pradesh for the last many days and his phone was also found switched off. Therefore, it was abundantly clear from the conduct of the petitioner that all along he had been fully aware of the proceedings which had been initiated against him, and had been intentionally avoiding the process of the Court. Learned counsel has asserted that the correction in name was just a clerical formality and did not prejudice the petitioner in any manner as the complainant had not introduced a new person as an accused but merely corrected the name of an existing accused.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. This Court does not find any merit in the submissions made by the learned counsel for the petitioner that the respondent/complainant

had introduced a new person i.e. the petitioner as an accused in the complaint in hand, under the garb of correction of name. A perusal of the proceedings before the Court below reveals that though there was some confusion between the names 'Bhoj Raj' and 'Bodh Raj', however, that seemingly is a clerical error. The particulars of the petitioner were rightly given at various stages of the proceedings, he cannot now take benefit of a clerical error in his name i.e. he being initially mentioned as 'Bhoj Raj'. The rank of the petitioner, the Police Station where he was posted and the address of his village i.e. Village Mundi, PS Khol duly corresponds to the information provided by the Police Department under RTI and it is also a matter of record that service was attempted on the aforementioned address.

8. The petitioner has not denied the correctness of the above particulars pertaining to his place of posting as well as his postal address. Still further, when the police official went to execute warrants at the residence of the petitioner at Gurugram, his son Parmod met the service official and apprised him that his father was away to Madhya Pradesh for the last many days. The phone of the petitioner was also found to be switched off and thus, he was not reachable. Still further, the SHO of Police Station Narnaund, where the petitioner was posted at the relevant time, when the crime in question was allegedly committed, is also named as an accused in the complaint in question.

9. A perusal of the order dated 01.10.2014 also reveals that the petitioner was being referred to as 'Bhoj Raj alias Bodh Raj, ASI'

therein. Thus, there cannot be any manner of doubt that the petitioner had been inadvertently referred to as ‘Bhoj Raj’ instead of ‘Bodh Raj’ in the memo of parties of the complaint in question. Hence, in the above mentioned facts and circumstances, this Court does not find any ground to interfere with the impugned order. Accordingly, the petition stands dismissed.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case and even the proceedings in furtherance of the petitioner being declared a proclaimed offender shall be decided on its own merits.

(MANJARI NEHRU KAUL)
JUDGE

September 20, 2023
rps

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