

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

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2023:PHHC:158407

CRM-M-42779-2017 (O&M)

Date of decision: December 1st, 2023

Ajit Singh Mahil and others

.....Petitioners

Versus

Ramesh Kumar Mehta

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Preetinder Singh Ahluwalia, Advocate
with Mr. Jaiveer Singh, Advocate
for the petitioners.

Mr. Himanshu Jain, Advocate
for the respondent.

MANJARI NEHRU KAUL, J.

Petitioners are impugning the order dated 13.09.2017 passed by learned Sessions Judge, Shaheed Bhagat Singh Nagar, whereby it upheld the order dated 16.11.2015 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Shaheed Bhagat Singh Nagar, summoning them to face trial in Criminal Complaint No.31 of 2014 dated 15.04.2014 (Annexure P-1) for offences punishable under Sections 499, 500 of IPC.

2. Reply filed on behalf of the respondent is taken on record.

3. Learned counsel for the petitioners, *inter alia*, contends that instant complaint emanates from an application presented to the Deputy Commissioner, S.B.S. Nagar, on 08.01.2008 by them. The application purportedly contained statements deemed defamatory by the complainant. In support, learned counsel has drawn the attention of this Court to the report dated 11.02.2008 and asserted that the complaint in question was thoroughly inquired into by the official

concerned and was subsequently closed on 11.02.2008 itself, by opining it to be a matter of civil nature. It has been further contended that the complainant, after a lapse of six years, from the initial submission of the purportedly defamatory complaint to the Deputy Commissioner, S.B.S. Nagar, had lodged the complaint in question alleging defamation.

4. While drawing the attention of this Court, it has been vehemently submitted by the learned counsel for the petitioners that the chronology of the events reveals that the complaint had been closed on 11.02.2008. In contrast, the complaint in question was lodged on 15.04.2014, followed by the impugned summoning order by the trial Court on 16.11.2015. Hence, it has been contended that the trial Court committed an error in not only entertaining the complaint in question but also summoning the petitioners to face trial as it was *prima facie* barred by limitation even if the period of limitation was counted from the date of closure of complaint on 11.02.2008.

5. Learned counsel for the petitioners, while referring to the provisions of Sections 499 and 500 of the IPC, has further submitted that the prescribed maximum punishment for these offences is two years. Consequently, the limitation prescribed for filing a complaint would be three years. In support, learned counsel has drawn the attention of this court to the provisions contained in Section 468 of the Cr.P.C.

6. Learned counsel for the petitioners has still further contended that it is matter of record that the complaint dated 08.01.2008 was closed on 11.02.2008. Hence, even if the limitation period was to be calculated from the date of closure of the initial

complaint, it would have still lapsed on 11.02.2011.

7. Moreover, it has been also asserted by the learned counsel for the petitioners that a bare perusal of the inquiry report would reveal that the petitioner was well aware about the filing of the aforementioned complaint dated 08.01.2008 as he had participated in the inquiry and also given his statement before the Inquiry Officer regarding the claim over the suit property. Consequently, it has been submitted that in the light of the bar stipulated under Section 468 of the Cr.P.C., the trial Court was precluded from taking cognizance of the complaint in question.

8. It has furthermore been argued by the learned counsel for the petitioners that even otherwise, the petitioners can not be made to face prosecution much less for defamation, since they had merely raised their concerns before the appropriate authorities. Additionally, it has also been argued that if any legal action was warranted, it could have been only in the form of proceedings under Section 182 of the IPC and at the behest of the Deputy Commissioner, to whom the purportedly defamatory complaint had been addressed.

9. Learned counsel for the respondent-complainant, while opposing the prayer and submissions made by the counsel opposite, has asserted that the complaint in question could not be said to be time barred and had been filed within the prescribed period of limitation. While relying upon the provisions delineated under Section 469 of the Cr.P.C., it has been contended that the limitation period would commence only from the time when the alleged offence comes to the knowledge of the aggrieved party. Consequently, the submission made by the petitioner of it being beyond the limitation period, was devoid of

any merit as the complaint in question had been filed within the confines of the limitation period. Furthermore, learned counsel for the respondent-complainant has emphasized that he became aware of the complaint filed by the petitioners only on 07.12.2011 during one of his visits to the office of the Deputy Commissioner, as prior thereto, he had never been joined as a party to the proceedings. Furthermore, it has been argued by learned counsel for the respondent-complainant that the petitioners had intentionally fabricated allegations against the respondent, which on the face of it, were defamatory. Such false accusations had caused significant distress to the respondent, who was a retired and decorated Defence Officer and who had rendered service to the nation during various wars; the allegations had caused considerable damage to his reputation and standing.

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

11. Undoubtedly, the initial complaint was lodged before the Deputy Commissioner on 08.01.2008 and was subsequently closed on 11.02.2008 following an inquiry by the authorities concerned. However, the complaint in question was filed on 15.04.2014, more than six years after the original complaint had been filed by the petitioners before the Deputy Commissioner. The offences alleged in the complaint in question fall within the ambit of Sections 499 and 500 of the IPC carrying maximum sentence of two years of imprisonment. Consequently, the permissible time limit for filing such a complaint would have been three years.

12. Given the aforementioned circumstances, the assertion made by the petitioners that the Court could not have entertained the

complaint filed by the respondent due to the bar delineated under Section 468 of the Cr.P.C., comes across as being valid. Though it was vehemently argued by learned counsel for the respondent that the respondent was unaware about the aforementioned complaint until 07.12.2011, to suggest that the complaint filed by him was well within time, this contention falls flat in the face on a bare perusal of the inquiry report. The inquiry report unmistakably reveals the presence of the respondent-complainant before the Inquiry Officer, where the petitioners had given their complaint containing the purported defamatory allegations against the respondent. Hence, unequivocally the complaint in question (Annexure P-1) being time barred and summoning order dated 16.11.2015 (Annexure P-2) passed by the Court of learned Judicial Magistrate 1st Class, Shaheed Bhagat Singh Nagar, whereby the petitioners have been summoned to face trial for offences punishable under Sections 499, 500 of IPC as well as the impugned order dated 13.09.2017, passed by learned Sessions Judge, S.B.S. Nagar, whereby the revision petition filed by the petitioners against the summoning order (Annexure P-2) was dismissed, deserve to be set aside.

13. Accordingly, the instant petition is allowed. The complaint in question (Annexure P-1) and all consequent proceedings arising therefrom are quashed qua the petitioners.

December 1st, 2023*Puneet***(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No