

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

CRM-M-43236-2017

Date of Decision : 25.07.2023

Prabhjot Singh

.....Petitioner

Versus

Prabhjit Kaur and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rahul Vats, Advocate
for the petitioner.

Mr. Angel Walia, Advocate
for respondents No.1 to 4 and 6.

Mr. Kunal Vinayak, Asstt. Advocate General, Punjab
for respondents No.5 and 7.

PANKAJ JAIN, J.

The present petition has been filed invoking jurisdiction under Section 482 Cr.P.C. impugning judgment dated 18th of October, 2016 passed by Ld. Additional Sessions Judge, Amritsar in Criminal Revision No.137 of 2016 upholding the judgment dated 5th of November, 2015 passed by Judicial Magistrate 1st Class, Amritsar dismissing the complaint preferred by the petitioner against the respondents under Sections 499/500/420/34/120-B IPC declining the prayer made by the petitioner to summon the respondents.

2. The parties to the present *lis* are related to each other. Respondent No.1 is wife of the petitioner. Respondent No.2 is father-in-law. Respondents No.3 & 4 are brothers-in-law. As per the allegations

levelled in the complaint, petitioner claims to have married respondent No.1 on 10th of January, 1997 after having love affair. It has been claimed that respondents No.2 to 4 were not happy with the marriage and hence conspired to falsely implicate the petitioner. On the complaint made by respondent No.1 an FIR No.90 dated 20th of April, 1999 registered for offences punishable under Section 376 IPC, Police Station Ajnala was registered against the petitioner. Petitioner claims to have earned acquittal therein vide judgment dated 10th of September, 2004. Alleging false implication present complaint was preferred by the petitioner on 21st of August, 2006. Complaint has been placed on record as Annexure P-4. Respondents No.5 and 6 have been implicated as police officials who registered the case and conducted investigation. Respondent No.7 has been impleaded being an Additional Sessions Judge who declined the bail to the petitioner. Trial Court rejected noticing that the petitioner has been acquitted granting him benefit of doubt and there is no finding recorded by the Trial Court in FIR faced by the petitioner that the complaint against the petitioner was falsely instituted and thus respondent No.1 having exercised her legal right cannot be held guilty of Sections 499, 500 IPC. Likewise, the police authorities and the Judicial Officer having done their duty, there is no reason to summon them and thus offence punishable under Sections 499, 500 IPC will not be made out against them. It was further held as under :

“16. Present complaint is filed under Section

499/500/420/34/120-B/167 of IPC. Section 499 of IPC and 500 IPC are not made out against the accused persons as case was decided on merits in Court, it is not defamation to express in good faith any opinion whatever respecting the merits of any case. In this case inducement is missing as the complainant failed to show the inducement in the present complaint to prima facie offence 420 IPC. Moreover, complainant has also not brought on record sufficient material to show that all the persons have common intention that they acted against the complainant and conspired with each other to do illegal act or any other act by illegal manner. As such, there is no sufficient material on record to summon the aforesaid persons under Sections 420/34/120-B/167 of IPC.”

3. The Revisional Court dismissed the revision preferred by the petitioner holding that there is nothing on record to show that the complaint preferred against the petitioner leading to registration of FIR was false and thus complaint was rightly dismissed.

4. I have heard counsel for the petitioner and have gone through records of the case.

5. Though the present petition has been filed under Section 482 Cr.P.C. and is maintainable but the jurisdiction being exercised by this Court in the absence of there being any appeal by the State is akin to revisional jurisdiction. This Court is guided by precedents of Supreme Court in **D. Stephens v. Nosibolla: [1951] 1 SCR 284**, wherein it was held that :

"10. The revisional jurisdiction conferred on the High Court

under section 439 of the Code of Criminal Procedure is not to be lightly exercised when it is invoked by a private complainant against an order of acquittal, against which the Government has a right of appeal under section 417. It could be exercised only in exceptional cases where the interests of public justice require interference for the correction of a manifest illegality, or the prevention of a gross miscarriage of justice. This jurisdiction is not ordinarily invoked or used merely because the lower court has taken a wrong view of the law or misappreciated the evidence on record."

The same principle was reiterated in **Logendra Nath Jha and others v. Polailal Biswas [1951 SCR 676]** stating :

".....Though sub-section (1) of section 439 authorises the High Court to exercise, in its discretion, any of the powers conferred on a court of appeal by section 423, sub-section (4) specifically excludes the power to "convert a finding of acquittal into one of conviction. This does not mean that in dealing with a revision petition by a private party against an order of acquittal the High Court could in the absence of any error on a point of law reappraise the evidence and reverse the findings of facts on which the acquittal was based, provided only it stopped short of finding the accused guilty and passing sentence on him. By merely characterizing the judgment of the trial court as "perverse" and "lacking in perspective", the High Court cannot reverse pure findings of fact based on the trial Court's appreciation of the evidence In the case. That is what the learned Judge in the court below has done, but could not, in our opinion, properly do on an application in revision filed by a private party against acquittal....."

6. Ld. Counsel for the petitioner is not in position to dispute that

the petitioner was acquitted in FIR case after being extended benefit of doubt. Thus merely by relying upon the judgment of acquittal the petitioner cannot claim that respondent No.1 filed false complaint. So far as Section 420 IPC is concerned, there is no pleading in the complaint as to how the petitioner claims to have been duped by any of the respondents and this Court finds that the same has been added only to overcome the bar of limitation as *qua* offences punishable under Sections 499, 500 IPC. The limitation as per Section 468 Cr.P.C. would be three years from the date of initial complaint filed by respondent No.1 against the petitioner which expired much prior to the filing of the present complaint.

7. Keeping in view the aforesaid facts, this Court does not find it to be a fit case to exercise jurisdiction under Section 482 Cr.P.C. Resultantly, the present petition is dismissed.

July 25, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No