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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1196-2018

Decided on : 20.01.2023

PARAMJIT KAUR

...Petitioner

VERSUS

SARANJIT SINGH AND OTHERS

..Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ketan Chopra, Advocate
for the petitioner.

Mr. Sunny Singla, Advocate
for the respondents.

Manjari Nehru Kaul, J.(Oral)

The petitioner/complainant is impugning the order dated 19.01.2018 passed by the learned Additional Sessions Judge, Sangrur vide which summoning of respondent-accused No.1 and 2 to face trial under Section 506 IPC was set aside.

Learned counsel vehemently contends that learned trial Court on the basis of allegations levelled in the complaint (Annexure P-1) as well as in the preliminary evidence (Annexure P-2), had rightly summoned all the accused to face trial. However, learned Additional Sessions Judge gravely erred by delving into the merits of the case at the stage of summoning, as at that stage, the Court had to merely satisfy itself as to whether a prima facie case was made out or not. In support of his submissions, learned counsel has placed reliance upon “***Bhushan***

Kumar and anr. Vs. State (NCT of Delhi)” 2012(2) RCR (Criminal)

794.

Per contra, learned counsel appearing for the respondents while controverting the submissions made by the learned counsel for the petitioner has contended that on a bare perusal of the allegations leveled in the complaint as well as the preliminary evidence, the ingredients of offence punishable under Section 506 of IPC are clearly amiss. He further submits that the daughter-in-law of the complainant got an FIR No.145 dated 24.10.2013 registered against the complainant and her son, and in the said case, the respondents had been cited as prosecution witnesses. Therefore, it was in that background, with an oblique motive just to exert pressure upon the respondents to not depose against them in that case, the complaint in question had been moved.

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

It is settled principle of law that at the stage of summoning an accused, a Magistrate has to merely satisfy itself as to whether there is sufficient ground for proceeding against an accused or not. At this stage, a detailed inquiry into the truthfulness or otherwise of the allegations leveled in the complaint cannot be carried out. However, it would be relevant to point out here that the Magistrate at the stage of summoning an accused to face trial, should not act as “Post Office or a Mouth Piece of the Prosecution”. Rather, the discretion which is vested in a Court has to be exercised judiciously and with a great deal of circumspection. The Magistrate should not ignore the improbabilities which may be evident in

held by the Hon'ble Supreme Court in "Smt. Nagawwa v.Veeranna Shivalingappa Konjalgi & Ors.", (1976)3 SCC 736.

The Hon'ble Supreme Court in "**Krishna Lal Chawla vs. State of U.P.**" 2021(2) RCR (Criminal) 300, has held as under:-

"18. As aforesaid, the trial courts and the Magistrates have an important role in curbing this injustice. They are the first lines of defence for both the integrity of the criminal justice system, and the harassed and distraught litigant. We are of the considered opinion that the trial courts have the power to not merely decide on acquittal or conviction of the accused person after the trial, but also the duty to nip frivolous litigations in the bud even before they reach the stage of trial by discharging the accused in fit cases. This would not only save judicial time that comes at the cost of public money, but would also protect the right to liberty that every person is entitled to under Article 21 of the Constitution. In this context, the trial Judges have as much, if not more, responsibility in safeguarding the fundamental rights of the citizens of India as the highest court of this land."

In the instant case, a perusal of the allegations levelled in the complaint reveal that the respondents had not only extended threats to kill the complainant and her family members but also to implicate them in false cases in case they took any legal action against them. In the aforesaid circumstances, it is highly unbelievable and cannot be digested that despite the complainant being extended such grave threats by the respondents, she would have chosen to sit quiet for 21 days before finally moving a complaint before SSP Sangrur on 27.09.2012. This abnormal delay in moving a complaint against the respondents qua the

alleged threats does raise a big question mark about the truthfulness of the case of the complainant.

The Hon'ble Supreme Court in *Manik Taneja v. State of Karnataka* : 2015(1) RCR (Criminal) 765 has held that a threat extended by a person must be with an intention to cause harm to the complainant or to cause him/her to do or omit to do any work. Mere expression of any words without an intention to cause harm would not be sufficient to attract the mischief of sections 503 and 506 IPC. In the present case the learned counsel for the petitioner has failed to bring to the notice of this court any material from which it could be prima facie discerned that the accused extended threats to the complainant with an intention to cause harm to her. Still further, the allegations of forgery and fraud which were allegedly committed in the year 1988 have been attributed only to respondent No.3 and not to respondent Nos. 1 and 2, who admittedly were minors at that time, and had been summoned to face trial only under Section 506 of IPC.

In the facts and circumstances as enumerated hereinabove, this Court has no hesitation to hold that the instant petition being devoid of any merit deserves to be dismissed.

20th January, 2023
sapna

(MANJARI NEHRU KAUL)
JUDGE

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