

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

CRM-M-37453-2022

Date of decision : 16.08.2023

Avtar Singh Bedi

....Petitioner

Versus

Dr. Parvinder Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arnav Sood, Advocate
for the petitioner.

Mr. Naresh Kumar, Advocate
for the respondent.

PANKAJ JAIN, J.

By way of present petition filed under Section 482 Cr.P.C. petitioner seeks quashing of the criminal complaint No.COMI 11 of 2020, dated 14th of July, 2020 titled as 'Dr. Parvinder Singh vs. Avtar Singh Bedi' under Section 500 IPC pending in the Court of Judicial Magistrate 1st Class, Garhshankar (Annexure P-3) and summoning order dated 23rd of February, 2022 (Annexure P-4).

2. Petitioner has been summoned to face trial in a complaint preferred by the respondent for offence punishable under Section 500 IPC. It has been claimed in the complaint that the petitioner got published false and baseless news items on 30th of December, 2019 and 3rd of January, 2020 in the Punjabi Newspaper Daily Ajit with an

intent to damage and lower the reputation of the complainant in the eyes of general public at large and is thus liable to be punished for offence punishable under Section 500 IPC. The precise allegations levelled against the petitioner read as under :

“3. That with an intent to defame the complainant the accused got published one false and baseless news item on 30-12-2019 in daily Ajit with the heading, “Khalsa College Mahilpur de Principal dia degrean te lgga swalia nishan” and made a false imputation on the reputation of the complainant with an intention to harm his reputation that, “ There is a flaw in the educational qualification in appointment of the complainant as Principal and further made the false imputation that the rules/regulation of the Punjab University in his appointment were not followed and also made an imputation that the educational achievements of the complainant are forged.". and after the complaint of the accused a committee was constituted by the vice chancellor Punjab University Chandigarh and after an inquiry the complaint of accused was found to be false/incorrect and the committee held the appointment of the complainant as Principal of SGGS Khalsa College Mahilpur as per the rule of the Punjab University and also stated that such complaint should be strongly discourage as it is the wastage of academic and administrative hours of the officials.

4. That not only this the accused further with an intention to defame the complainant in the eyes of College Management, students other staff members, friends, relatives and the society in general got published one news item on 03-01-2020 in daily Ajit with the heading, "Khalsa College Mahilpur de Principal te hun lage College funda di durvaron de dosh, without any inquiry and evidence the accused has made this false allegation that, "the complainant during his tenure as Principal has misused the College funds for his personal use which are to be spent on the

students of the College. On his personal visit to foreign trip whereas that foreign trip was related to education to attend the International educational Conference and it was necessary to represent the College at international standards and it was not his personal visit to abroad and further made the allegation that the complainant has made the payment by taking the benefit of simpleton of the Managing Committee of the College to his relatives to gave them the benefit" whereas no such payment was made by the complainant as Principal.

5. That the accused globally got published a false news item with an intention to harm and lower the reputation of the complainant in the eyes of Public at large and throughout in India. The accused is nourishing a feeling of ill will and enmity towards the complainant without any reason and for reasons best known to the accused.

6. That the complainant is well educated having all his genuine educational credentials and he stood first in M.Sc Mathematics examination from Punjabi University, Patiala and was awarded University gold medal in the year 1995 and was commanding a good position in the society, friends and relative and specially among the students and in the area.

7. That the complainant was astonished on seeing this false news item in which the accused with an ill will and malafied intention have made a false imputation of forged educational qualification of the complainant with an intention to damage and lower his reputation in the eyes of General public at large. The accused has made this false imputation stated above intentionally containing defamatory allegation with an intention to harm the reputation of the complainant. This false imputation have put very harmful impact on the soft mind of the wards of the complainant and they are compelled to live under constant fear and threat as they are in their crucial stage of education and are unable to focus on their studies with single minded dedication.”

3. Complainant led preliminary evidence and examined CW6

Gurjit Singh, Record Incharge Ajit Newspaper as well. On the basis of preliminary evidence the Trial Court found that *prima facie* sufficient ground has been made out to proceed against the accused/petitioner and issued process against him vide impugned order dated 23rd of February, 2022.

4. Ld. Counsel representing the petitioner while assailing the summoning order as well as complaint submits that the allegation against the petitioner is of having got the news items published against the respondent whereas there is no evidence on record that it was the petitioner who got the news items published of which the respondent feels aggrieved. It has been contended that the petitioner being Ex-Principal is a responsible citizen. Being concerned about the standard of education he sought for fair and transparent inquiry in the selection of the complainant as Principal of SCGC Khalsa College Mahilpur and one Dr. Rajnikant as Principal of SD College, Hoshiapur. It has been submitted that the petitioner has no personal axe to grind with the respondent and thus there is no intent that can be attributed to the petitioner to defame the respondent.

5. Respondent has filed reply wherein preliminary objection has been raised w.r.t. maintainability of the present petition claiming that the petitioner ought to have filed revision before invoking jurisdiction of this Court under Section 482 Cr.P.C. It has been further

contended that the petitioner made false complaint against the appointment of the respondent due to which a Committee was constituted by the then Vice-Chancellor, Panjab University, Chandigarh and inquiry was conducted in the process of appointment of the petitioner. Not only the Inquiry Committee found that there was nothing wrong with the appointment of the petitioner but also mentioned that such complaint should be strongly discouraged as it results in wastage of academic and administrative hours. Reliance is being placed upon testimony of CW4-Sukhbir Kaur and CW5-Gurdip Kumar Sharma to prove that the contents of the complaint filed by the petitioner were wrong and the selection of the respondent as Principal of SGGS Khalsa College, Mahilpur was as per rules and regulations.

6. I have heard counsel for the parties and have carefully gone through records of the case.

7. From the bare perusal of the contents of the complaint it is evident that the allegation against the petitioner as made in the complaint is w.r.t. alleged false and baseless news items published in Punjabi Newspaper Daily Ajit on 30th of December, 2019 and 3rd of January, 2020. Respondent examined Record Incharge Ajit Newspaper, Hoshiarpur as CW6 namely Gurjit Singh whose testimony reads as under :

“Stated that I am working as Record Incharge in the Daily Ajit Newspaper in Punjab language. I have brought the summoned record i.e. newspaper dated 30.12.2019 and 3.1.2020. The news item “titled as Khlasa College Mahilpur De Principal Dian Degreean Te Lagga Sawalia Nishan” dated 30.12.2019 which is exhibited as Ex.C32 was published from our newspaper. This news item was sent by Deepak Agnihotri our news reporter. Similarly I have seen the newspaper dated 3.1.2020 and it was also published from our head office at Jalandhar and this news item was sent by our press reporter namely Deepak Agnihotrai under the titled as “Khalsa College Mahilpur De Principal Te Hon Lage College Fundan Di Durvarton De Dosh” and this news item appears on two pages i.e.page No.7 and 11. I have seen the newspaper in the court file which is published from our head office Jalandhar and the same is Ex.C29 and Ex.C30. I have also brought the newspaper from our office. The newspaper attached with the file are correct as per our record.”

8. The testimony of CW6 is explicit w.r.t. the source of the news i.e. News Reporter namely Deepak Agnihotri. It is the said News Reporter who sent both the news items for publication. Deepak Agnihotri has not been arraigned as accused or witness. Likewise neither the newspaper nor the publisher thereof has been arraigned as accused. The aforesaid testimony of the witness examined by the complainant himself exculpates the petitioner. In the absence of any link between the petitioner and News Reporter Deepak Agnihotri it is difficult to comprehend how the petitioner can be accused of having got the two news items published as alleged by the complainant. Trite

it is that issuance of process under Section 204 is a judicial function and requires a judicious approach. This proposition is based upon Fundamental Principles of Law. A person against whom no offence is made out cannot be made to face an ordeal by issuance of process. Issuance of process must show application of judicious mind. The Court is required to apply its mind on the material before it to determine if any ground for issuance of process is made out or not. While dealing with the complaint *qua* offence of defamation Apex Court in the case of **Subramanian Swamy vs. Union of India, Ministry of Law & others, (2016) 7 SCC 221** echoed the same sentiments holding as under :

“196. Another aspect requires to be addressed pertains to issue of summons. Section 199 Cr.P.C. envisages filing of a complaint in court. In case of criminal defamation neither any FIR can be filed nor can any direction be issued under Section 156(3) Cr.P.C. The offence has its own gravity and hence, the responsibility of the Magistrate is more. In a way, it is immense at the time of issue of process. Issue of process, as has been held in ***Rajindra Nath Mahato v. T. Ganguly, Dy. Superintendent and another, (1972) 1 SCC 450***, is a matter of judicial determination and before issuing a process, the Magistrate has to examine the complainant. In Punjab ***National Bank and others v. Surendra Prasad Sinha, 1992(3) RCR (Criminal) 344 : 1993 Supp. (1) SCC 499*** it has been held that judicial process should not be an instrument of oppression or needless harassment. The Court, though in a different context, has observed that there lies responsibility and duty on the Magistracy to find whether the concerned accused should be legally responsible for the offence

charged for. Only on satisfying that the law casts liability or creates offence against the juristic person or the persons impleaded then only process would be issued. At that stage the court would be circumspect and judicious in exercising discretion and should take all the relevant facts and circumstances into consideration before issuing process lest it would be an instrument in the hands of the private complaint as vendetta to harass the persons needlessly. Vindication of majesty of justice and maintenance of law and order in the society are the prime objects of criminal justice but it would not be the means to wreak personal vengeance. In ***Pepsi Foods Ltd. and another v. Special Judicial Magistrate and others, 1997(4) RCR (Criminal) 761 : (1998) 5 SCC 749*** a two-Judge Bench has held that summoning of an accused in a criminal case is a serious matter and criminal law cannot be set into motion as a matter of course.

197. We have referred to these authorities to highlight that in matters of criminal defamation the heavy burden is on the Magistracy to scrutinise the complaint from all aspects. The Magistrate has also to keep in view the language employed in Section 202 Cr.P.C. which stipulates about the residence of the accused at a place beyond the area in which the Magistrate exercises his jurisdiction. He must be satisfied that ingredients of Section 499 Cr.P.C. are satisfied. Application of mind in the case of complaint is imperative.”

9. In the present case, once CW6 testified before the Court that the source of news items was their own reporter and not the petitioner the Trial Court ought to have applied its mind and considered the evidence. There is nothing on record that links the petitioner with the aforesaid news items.

10. In view of above, this Court does not find that the Trial Court was right in issuing process against the petitioner when it has come in the evidence adduced by the complainant himself, that the news items which forms grievance of the complainant was sourced by the Newspaper from its own News Reporter. As per PW-6 the information *qua* the news items was disseminated by the News Reporter and not by the petitioner. Resultantly, this Court finds that the criminal complaint as well as order issuing process against the petitioner cannot sustain and are liable to be quashed.

11. Accordingly, the present petition is allowed. Criminal complaint No.COMI 11 of 2020, dated 14th of July, 2020 titled as 'Dr. Parvinder Singh vs. Avtar Singh Bedi' filed under Section 500 IPC pending in the court of Judicial Magistrate 1st Class, Garhshankar and the summoning order dated 23rd of February, 2022 (Annexure P-4) are ordered to be quashed.

August 16, 2023

Dpr

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No