

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

257

CRR-95-2019 (O&M)
Date of decision: 16.08.2023

Paramjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. PKS Phoolka, Advocate for the petitioner.

AMAN CHAUDHARY, J.

1. The present revision petition has been preferred against the judgment dated 29.10.2018, passed by Additional Sessions Judge, Bathinda, which dismissed the appeal filed against the order dated 10.06.2016 passed by Judicial Magistrate 1st Class, Bathinda, whereby the complaint of the petitioner was dismissed.

2. Brief facts of the case are that the complainant had filed a criminal complaint against one Guddi @ Surjit Kaur, after which respondent nos.1 and 2 started threatening her in order to make her withdraw the case. Thereafter, on 10.09.2012, a quarrel arose between respondent no.3-Jaspal Kaur and the petitioner-Paramjit Kaur, due to which she submitted an application and thereby Jaspal Kaur got challaned u/s 107/151 of Cr.P.C. Subsequently, respondent Nos. 2 to 4 made a complaint against Paramjit Kaur that she had given beatings to Jaspal Kaur and thus a DDR was lodged against the petitioner as also her brother.

Forthwith, the complainant approached various concerned police officials i.e. respondent Nos. 5 to 8, but was advised to bury the hatchet and make a compromise. After filing several applications, the present complaint was filed.

3. In order to prove the case against the accused, the complainant examined herself as well as 5 more witnesses and thereafter closed the evidence.

4. The trial Court after carefully examining the evidence on record and hearing the learned counsel for the complainant came to the conclusion that there was no sufficient ground to summon the accused and thus, dismissed the complaint vide order dated 10.06.2016.

5. Feeling aggrieved, the petitioner filed an appeal against the aforesaid order before the Additional Sessions Judge, Bathinda, which also came to be dismissed vide judgment dated 29.10.2018.

6. Hence the present revision petition.

7. Learned counsel for the petitioner submits that the Courts below have committed grave error in dismissing the complaint merely on conjectures and surmises and failed to appreciate the evidence on record. The complainant had established her case with cogent and reliable statements of witnesses against the accused persons of continuously harassing and making her suffer mental tension, torture and humiliation.

8. Heard the learned counsel for the petitioner and have perused the case file.

9. Before proceeding to consider the present case, it is necessary to make a reference to the judgment of the trial Court, dated

10.06.2016, wherein while dismissing the complaint, it has been observed thus:

“5.The complainant has sought an action against the accused under Section 182 of IPC. But it is settled law that a complaint under Section 182 IPC can be filed only by a public servant and it cannot be entertained at the behest of a private person as offence under Section 182 IPC relates to giving false information to a public servant. As per the provisions of Section 195 of Cr.P.C., court can take cognizance of offences against public servants except on the complaint in writing of the public servant concerned or of some other public servant to whom he is subordinate. In **Daulat Ram v. State of Punjab** AIR 1962 SC 1206, the Hon'ble Supreme Court categorically held that prosecution under Section 182 IPC must be on complaint in writing by Tehsildar (public servant) in view of provisions of Section 195 Cr.P.C. In view of this, complaint by the complainant under Section 182 IPC would clearly be not maintainable. It is alleged by the complainant that the accused had falsely implicated her and her brother Jagsir Singh under Section 107/150 of Crpc. The documents produced by the complainant herself in the preliminary evidence reveals that occurrence has been proved against the complainant but the brother of the complainant Jagsir Singh was discharged therefrom. It is argued on behalf of the complainant that the accused have committed an offence under Section 420 of IPC. The ingredients required to constitute the offence of cheating are:- (i) There should be fraudulent or dishonest inducement of a person by deceiving him; ii) (a) The person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) The person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived. In the entire complaint the complainant has not described how the accused cheated with her or her brother Jagsir Singh. There is nothing on record what loss has been caused to the complainant due to the cheating. So, there is nothing on record to attract the provisions of Section 420 of IPC. Further, there is no document on record which can be said to a forged document. So, offence of forgery has also not been made out against the accused.

6. The complainant has further averred that due to the acts of the accused her reputation was affected and the

complainant was lowered in the esteem of the society. The essence of offence of defamation is the harm caused to the reputation of a person. The commission of offence of defamation or publishing any imputations concerning any person must be "intending to harm or knowing or having reason to believe that such imputation will harm, the reputation of such person. It is evident on record that the complainant as well as accused are at loggerheads. Moreover, mere act of filing applications before police does not constitute any such offence of defamation. To file a complaint against a person does not itself amount to defamation. The Complainant has sought action on account of moving of false and frivolous complaint by the accused against her but the accused have only utilized their legal right as the complaint has been filed before a proper authority. Mere filing of complaint before the police does not prove that the complaint was filed with malicious intention or with an intention to injure the reputation of the Complainant. Therefore, essential ingredients of defamation have also not been made out against the accused.

7. Therefore, keeping in view the aforesaid discussion, I am of the considered opinion that there is no sufficient ground to summons the accused. So, under these circumstances, present complaint is dismissed being without merits....”

10. The lower Appellate Court while dismissing the appeal filed by the complainant-petitioner, had recorded the following findings:

“15. Having considered the arguments of both the sides in the light of record available on file, I have found photocopy of complaint by Jasmail Singh sans the signatures and date, yet the inquiry proceedings against ASI Harbans Singh at the instance of complainant Paramjit Kaur are on record, wherein Jasmail Singh had stated that they had moved an application dated 25.9.2012 with SDM, Bathinda regarding the occurrence dated 23.9.2012 on 25.9.2012, which was marked to SHO, Police Station Thermal and that very application is under the signatures of Jasmail Singh and marked by SDM, Bathinda to SHO, PS Thermal, is on record. After making inquiry over the same, ASI Harbans Singh presented the calendra under section 107, 150 Cr.P.C. proved on record as Ex.C3 before SDM, Bathinda against complainant Paramjit Kaur and her brother Jagsir Singh. However, Jagsir Singh was discharged on the basis of legal opinion of ADA (legal), Bathinda on

21.5.2013, proved on record as Ex.C8.

16. However, Complainant Paramjit Kaur was indicted under section 107, 150 Cr.P.C.by SDM- Executive Magistrate, Bathinda vide order dated 11.3.2013 proved on record as Ex.C1.

17. There is nothing on record to suggest that the complaint by Jasmail Singh proved on record as Ex.C5 was forged and fabricated. There is nothing on record to suggest that the alleged complaint contained false assertions.

18. During the course of arguments, there can be no denial from the fact that everybody has got the right to set the law in motion for the redressal of his grievance. So merely from the bald assertion of CW1 Paramjit Kaur, it cannot be taken that the alleged complaint Ex.C5 contained a false version and was actuated with malice. There is nothing on record to suggest that a false representation was made to cheat the police within the meaning of section 420 IPC as discussed by Hon'ble Supreme Court of India in **International Advanced Research Centre for Powder Metallurgy and New Materials (ARCI) and Ors. Versus Nimra Cerglass Technics (P) Ltd.and Anr.** (supra). Rather complainant was indicated vide order dated 11.3.2013 by the Executive Magistrate, Bathinda, proved on record as Ex.C1 after holding inquiry.

19. With these observations, I am of the considered opinion that no offence is made out in the given circumstances. The order passed by the learned trial court suffers from no illegality or perversity. As such, the same is upheld.”

11. This Court considers it necessary to remind itself of the limited scope of revisional jurisdiction. In **Ram Partap vs. Rajesh Kumar**, 2014 SCC OnLine P&H 8659, the revision challenging the judgments of Courts below was dismissed, while relying upon the dictum of law laid down in **Jagannath Choudhary vs. Ramayan Singh**, (2002) 5 SCC 659, wherein Hon'ble The Supreme Court held that, “Incidentally object of revisional jurisdiction of the High Court as envisaged under Section 401 CrPC, is to confer upon superior criminal courts a kind of paternal or supervisory jurisdiction, aimed at correcting miscarriage of justice arising from misconception of law, irregularity of procedure,

neglect of proper precautions of apparent harshness of treatment which result, on the one hand, in some injury to the due maintenance of law and order, or, on the other, in some undeserved hardship to individuals.”

12. Hon’ble The Supreme Court in the case of **Hydru vs. State of Kerala**, (2004) 13 SCC 374, discussed the ambit of powers of revisional Court in revision against acquittal by a private party and held the same to be very limited. It was observed that interference can only occur if there is any procedural irregularity or material evidence has been overlooked or misread by the trial Court.

13. A gainful reference made to the judgment of Hon'ble Supreme Court in **Sanjaysinh Ramrao Chavan vs. Dattatray Gulabrao Phalke**, (2015) 3 SCC 123, which reads thus:

"14..... Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court Under Sections 397 to 401 Code of Criminal Procedure is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction."

14. The Courts below meticulously examined the evidence and arrived at the right conclusion as the complainant could not establish the guilt of the accused-respondents that false allegations or complaint had been made

against the petitioner and the ingredients constituting defamation were also not found. No glaring defect in the procedure or that a patent error has been committed by the trial Court in ignorance of law, has been pointed out by the counsel for the applicant, which may have resulted in flagrant miscarriage of justice. There is not even an iota of evidence against the respondents, which would lead to their conviction and a perusal of the orders shows that no other view is possible.

15. Applying the principles laid down in the foregoing judicial pronouncements to the facts of the present case, wherein the trial Court examined all aspects threadbare, this Court finds that the impugned judgments cannot be characterised as perverse requiring any interference. As such, the present petition is dismissed being devoid of merit.

16.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No