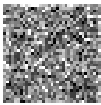


2024:PHHC:162343



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-A-2067-MA-2015
Date of Decision: 14.08.2024

SAMEER DOGRA

.....APPELLANT

VERSUS

VANDANA GUJRAL AND ANR

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankur Ghai, Advocate
for the applicant/appellant (Through Video Conferencing)

SANDEEP MOUDGIL, J

1. The application under [Section 378\(4\)](#) CrPC has been filed by the applicant seeking leave to appeal against the judgment dated 28.08.2015 passed by Judicial Magistrate, First class, Ludhiana(in short, 'trial court') vide which complaint stands dismissed under section 499, 500 IPC on the ground that filing of civil suit and distributing the copies of suit does not amount to defamation even if it contains defamatory statements.
2. The brief facts of the case are that the respondent-accused is the sister of the appellant and respondent-accused no.2 is the relative of respondent-accused no.1's husband. After the death of Vijay Kumar Dogra, appellant has been living in the house property no. 321, Sham Singh Road, Civil Lines, Ludhiana. In greed, Respondent-accused no.1 filed false, frivolous suit against the appellant and his daughter through respondent-accused no.2. In the suit so filed, the respondent have leveled false and

baseless allegations which are in the manner of character assassination and defamatory. The respondent-accused have also tried to malign the character of the appellant stating that he was always interested in his father's property and he use to provide inferior treatment to his father. During the time of entire treatment, rather it was only the appellant and his family who was taking care of his father and respondent-accused no.1 was no where to be seen. The appellant also went under depression by facing such mental agony and torture as even the women folk of his family were humiliated and disgraced.

3. The learned counsel for the applicant/appellant has contended that the impugned order of the trial Court is illegal and erroneous on the ground that it has failed to appreciate that the allegations in the suit were totally false and frivolous due to which the reputation and image of the appellant and his wife have badly affected. The complaint was filed by the complainant-appellant under Section 499 and 500 IPC as his and his wife's names were spoiled and their characters assassinated by the accused-respondent in the Medical field and at national and international level. As such, the learned Court below has failed to examine the matter in its correct and real sense and perspectivity before dismissing the complaint. Therefore, the impugned order is liable to be set aside.

4. Heard and case file perused.

5. After perusal of the order of the trial court below, it is evident that the trial court has categorically dealt with the deposition of the complaint and other witnesses examined by the complainant on his behalf and only thereafter had reached to the conclusion to dismiss the complaint. Further, the appellant while appearing as CW-1 had deposed that respondent-accused filed civil suit for possession of the entire property and for permanent injunction against the

appellant and his daughter and further deposed that the respondent-accused had suffered defamatory statement against the appellant and his wife in the civil suit. Also CWS-2, 3 & 4 had deposed that the respondent-accused no.2 Sanjay Gujral had distributed the copies of the plaint in the club premises which shows that respondent-accused Vandana Gujral had levelled certain allegations against the appellant and that the said civil suit was filed in the civil court i.e. lawful authority to decide the dispute between the parties. Moreover, the act of filing plaint before the Civil Court is covered under 8th exception to Section 499 IPC which provides as under:-

“It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter for accusation.”

6. Furthermore, there is no material on record to show that the civil court had observed that suit filed by the respondent-accused no.1 is false and frivolous.

7. In this view of the matter, the appellant has failed to stand on its legs to prove the case therefore this Court does not see any ambiguity and perversity in the order. Therefore, leave to appeal is declined and accordingly, the application and the appeal are hereby ordered to be dismissed.

14.08.2024

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(SANDEEP MOUDGIL)
JUDGE