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

CRM M-35727-2010

Date of Decision: 06.03.2024

Krishan Mohan Garg

.....Petitioner

Versus

K.K. Gupta and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Tejas Bansal, Advocate,
for the petitioner.

Ms. Neelam Sharma, Advocate for
Mr. Hemant Bassi, Advocate,
for respondent No.1.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 340 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”) and prayer clause of the same reads as under:-

“Petition under Section 340 of the Code of Criminal Procedure, 1973 for making an inquiry into an offence committed as per clause (b) of Sub-Section (1) of Section 195 Cr.P.C in relation to a proceedings in Court by producing wrong document & affidavit.”

2. It is contended by learned counsel for the petitioner that respondents while filing CRM-37770-M-2004, had annexed incomplete minutes of meeting dated 18.09.1991 as Annexure P-3 and also sworn in an affidavit dated 19.07.2004 in support thereof. Also contended that on the basis of deliberate falsehood, respondents obtained interim stay on 16.08.2004; hence, they are liable to be prosecuted.

3. On the other hand, learned counsel for respondent No.1 vehemently opposed the prayer while submitting that CRM-37770-M-2004 was filed for quashing of complaint No.87/2 dated 17.03.2003 titled as “**Krishan**

proceedings and that petition was disposed off as having been rendered infructuous on 13.09.2011. Further submitted that an order dated 26.07.2011, framing charges against the respondents was challenged, before learned Additional Sessions Judge by way of criminal revision, which was allowed on 10.03.2014 and the order dated 26.07.2011 was set-aside. Also submitted that after passing of the order dated 10.03.2014 by learned Revisional Court, respondents were discharged in the complaint case by learned CJM, Ambala vide order dated 12.03.2014, and that has attained finality. Lastly submitted that aggrieved against the order dated 10.03.2014, present petitioner filed CRM-M-40043-2014, but the same was dismissed for non-prosecution on 13.04.2023 and it has not been restored up till now; hence, prayed for dismissal of the petition with costs.

4. Heard learned counsel for the parties and perused the paper-book.

5. It transpires that initially in CRM-37770-M-2004, interim stay was granted on 16.08.2004, but that petition was disposed off as having been rendered infructuous by the then Coordinate Bench (Brother, Justice Augustine George Masih) {now Hon'ble Judge, Supreme Court} vide order dated 13.09.2011 and which reads as under:-

“Yesterday, when this case was taken up for hearing, counsel for the respondent had stated that after the vacation of stay of the proceedings before the trial Court by this Court vide order dated 20.04.2010, charges stand framed against the petitioner, challenging which, a revision petition has been preferred and is pending before the Additional Sessions Judge, Ambala. Counsel for the petitioners had sought time to verify this fact.

Today, counsel for the petitioners states that the statement made by the counsel for the respondent is correct, in the light of which, he prays for withdrawal of the present petition as having been rendered infructuous.

Ordered accordingly.”

6. On the same day, present petition was also disposed off by the same Bench and the order reads as under:-

“Prayer in this petition is for initiation of proceedings against the respondents for having committed an offence as per clause (b) of Sub-Section (1) of Section 195 Cr.P.C.

A perusal of the record indicates and it so appears that there was a typographical error, which has resulted in the position as has been submitted by the petitioner.

In the light of this, the present petition is not required to be proceeded with.

Disposed of.”

The aforesaid order of even date, disposing off the present petition had been challenged before Hon’ble the Supreme Court by way of Criminal Appeal No.2480 of 2014 in SLP(Crl.) No. 5891 of 2012 and which was allowed on 24.11.2014, in the following manner:-

“Leave granted.

Having perused the order impugned and after hearing learned counsels for the parties, we are of the view that the High Court should have decided the matter on merits.

We therefore, without expressing any opinion on the merits of the case, allow this appeal, set aside the order of the High Court and remit the matter to the High Court for adjudication on merits. The High Court is requested to hear the parties and decide the case on merits in accordance with law.”

7. Today, during the course of hearing, although, learned counsel for the petitioner vehemently raised the plea that at the time of filing CRM-37770-M-2004, respondents attached incomplete minutes of meeting dated 18.09.1991, but he is not able to show, as to how the minutes were incomplete? Even for the sake of argument, it is accepted that minutes of meeting dated

the complete copy of the same and raise his grievance at the time of final disposal of CRM-37770-M-2004 on 13.09.2011.

8. Apart that, it is a matter of record that in the complaint titled as “*Krishan Mohan Garg Vs. K.K. Gupta and another*” filed at the instance of petitioner, present respondents have already been discharged by the Court of competent jurisdiction on 12.03.2014 and learned counsel for petitioner was not able to show that the order of discharge has been set-aside till date.

9. In view of the above, this Court is of the considered opinion that present petition has been filed without any substance and, thus, the same is complete misuse of the process of Court; hence deserves to be dismissed with costs.

10. Faced with the above predicament, at this stage, learned counsel for the petitioner, on instructions, submits that he be permitted to withdraw the petition.

11. Although in view of the order dated 24.11.2014, passed by Hon’ble the Supreme Court, this Court was not inclined to accept such a prayer, but taking a lenient view, petition is disposed off accordingly.

12. However, there is no hesitation to observe that present petition sans merit for initiation of proceedings under Section 340 Cr.P.C.

13. Pending application(s), if any, shall also stand disposed off.

06.03.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No