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CRM-M-8255-2018 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8255-2018 (O & M)
Date of Decision: 22.05.2024

Dr. Jaidev Singh

... Petitioner

Versus

Dr. Tirath Ram Goyal and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.S. Sidhu, Advocate,
for Mr. G.S. Nahel, Advocate,
for the petitioner(s).

Mr. Akhil Kashyap, Advocate,
for Mr. Parveen Kataria, Advocate,
for respondents No.1 to 3.

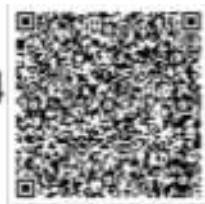
Mr. Sanjay Gupta, Advocate,
for respondent No.4.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 06.10.2018 (Annexure P-3) passed by the Sessions Judge, Sri Muktsar Sahib, in complaint No.COMI/61/2014 under Sections 167/177/182/193/196/500 read with Section 120-B IPC dated 11.04.2014 by which the summoning order dated 13.06.2016 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Sri Muktsar Sahib has been set aside.

2. The brief facts of the case are that the petitioner-complainant (hereinafter known as 'the petitioner') filed the aforementioned complaint stating that he (petitioner) was working under Dr. Tirath Ram

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Goyal, Civil Surgeon, Sri Muktsar Sahib. On the pretext of a false complaint filed by Dhan Kaur, the accused tried to involve him (petitioner) in some unlawful proceedings with an intention to harm him and spoil his reputation. Dr. Tirath Ram Goyal/accused-respondent No.1 (hereinafter known as respondent No.1) in connivance with accused/respondents No.2 to 4 (hereinafter known as respondents No.2 to 4) intentionally framed a charge-sheet dated 07.06.2011 against him (petitioner) with an intention to cause injuries to his reputation, mind, personal and social life without having been asked by any appellate authority to do so. In fact, the accused/respondents were not competent to initiate a departmental enquiry and to frame a charge-sheet unless the same was demanded by the competent authority. During the course of the regular enquiry, statements of witnesses were recorded and ultimately, after consideration of the evidence, the enquiry officer Sh. J.P.S. Puri, IAS (Retd.) fully exonerated him. During the course of the said enquiry, respondents No.2, 3 and one Rupinderjit Singh Bhandari appeared before the enquiry officer and made false statements against him (petitioner). However, despite the fact that the enquiry officer found the allegations to be baseless, respondent No.4-Gurdeep Singh, the then Additional Secretary, Health & Family Welfare, Punjab put adverse remarks by overruling the opinion of the dealing Assistant. All this was done with a view to target the petitioner and also without giving him a personal hearing. Thus, wrongful loss and injury was caused to him and gain to the accused-respondents.



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3. Based on the allegations levelled in the complaint and the recording of the preliminary evidence, the Court of Judicial Magistrate Ist Class, Sri Muktsar Sahib summoned the accused-respondents for having committed the offences under Sections 167, 177, 182, 193, 196, 500 IPC read with Section 120-B IPC. A copy of the said order dated 13.06.2016 is attached as Annexure P-2.

4. The respondents No.1 to 3 filed a criminal revision No. 118 of 30.09.2016 whereas respondent No.4-Gurdeep Singh filed a criminal revision No.21 of 16.03.2017. As per the order dated 06.01.2018, the said revision petitions were allowed and the summoning order was set aside by the Court of Sessions Judge, Sri Muktsar Sahib dated 06.01.2018. A copy of the said order is attached as Annexure P-3 with the present revision petition.

5. The aforementioned order dated 06.01.2018 (Annexure P-3) is under challenge in the present petition.

6. The learned counsel for the petitioner contends that the regular departmental enquiry against the petitioner was initiated without giving him any personal hearing which was a condition precedent as per the provisions of the Punjab Civil Services (Punishment and Appeals) Rules, 1970. This was done as the accused/respondents had ill intentions towards the petitioner. As per the regular enquiry report, the charge-sheet was dropped vide order dated 06.12.2012. During the enquiry, the respondents had made false statements against the petitioner to the effect that they had found irregularities committed by the petitioner. The

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respondents were well-aware of the fact that they were deposing falsely but still chose to do so. There were multiple other instances where it would be clear that the respondent No.1 was inimical to the petitioner because of which he alongwith the other respondents had attempted to ruin the career of the petitioner. As the acts of the respondents were not in discharge of their official duties and they had exceeded their jurisdiction by preparing false documents etc., no sanction was required for their prosecution and therefore, the impugned order (Annexure P-3) was liable to be set aside and the accused-respondents were liable to face Trial.

7. The learned counsel for the respondents, on the other hand, contend that the respondents had acted in discharge of their official duties and therefore, in the absence of sanction under Section 197 Cr.P.C., the question of their prosecution did not arise. In fact, the sanction for prosecution was sought by the petitioner vide letter dated 13.09.2013 (Annexure R-20 attached to the reply dated 08.10.2018 submitted by respondent No.4) but the same had been denied by the competent authority on 31.12.2013 (Annexure R-1 attached to the reply dated 08.03.2019 submitted on behalf of respondents No.1 to 3). This fact of the denial of the sanction had not been brought to the notice of the Trial Court despite the fact that the complaint was instituted on 11.04.2014 and the summoning order was passed on 13.06.2016. A suit for recovery had been filed by the petitioner against respondent No.1 and the same was dismissed by the Court of Civil Judge (Senior Division), Sri Muktsar

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Sahib vide a judgment dated 19.09.2014 (Annexure R-2 attached to the reply dated 08.03.2019 submitted on behalf of respondents No.1 to 3). The allegations that the enquiry had been initiated by respondent No.1 was completely baseless. In fact, the Principal Secretary, Government of Punjab, Department of Health and Family Welfare, vide order dated 10.12.2011 (Annexure R-17 attached to the reply dated 08.10.2018 filed on behalf of respondent No.4) had appointed Sh. Joginderpal Puri, IAS (Retd.) as an enquiry officer to know the truth of the charges framed against the petitioner vide the aforementioned order Annexure R-17. Therefore, no enquiry was initiated only at the instance of respondent No.1 as has been alleged. They, therefore, contend that once the departmental enquiry had been ordered by the competent authority, sanction for prosecution had been specifically denied which fact had not been brought to the notice of the summoning Court, the respondents had acted in the discharge of their official duties and the suit for damages filed on the basis of identical allegations as levelled in the complaint had been dismissed, no fault could be found with the order passed by the Revisional Court setting aside the summoning order dated 13.06.2016 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Sri Muktsar Sahib.

8. I have heard the learned counsel for the parties.

9. A perusal of the record would reveal that an enquiry was initiated against the petitioner at the instance of the competent authority.

The petitioner was exonerated. He moved an application under Section

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197 Cr.P.C. seeking grant of sanction to prosecute the respondents which was denied. He deliberately did not disclose the same and filed the complaint in question leading to the passing of the summoning order. It was only later when the aforementioned facts had been brought to the notice of the Revisional Court that the summoning order (Annexure P-2) was set aside. The facts as emanating from the pleadings clearly establish that the respondents acted completely in discharge of their official duties. Therefore, the grant of sanction was certainly mandatory. Further, a civil suit on the identical cause of action stands dismissed. There is no evidence to show that the respondents ever prepared any false evidence or they acted to defame the petitioner as the enquiry in question was marked by the Government and conducted by it. Merely, calling for the record or sending the same by the respondents would not amount to the commission of any offence.

10. Thus, in view of the above discussion, I do not find any merit in the present petition and the same stands dismissed.

May 22, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No