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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-50681-2024****Date of Decision: 23.10.2024**

Parveen Kumar

...Petitioner

Versus

Balvinder Kalia

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Parth Sharma, Advocate for
Mr. Gaurav Arora, Advocate
for the petitioner.

KIRTI SINGH, J.(Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of Criminal Complaint No. COMI 347 of 2019 filed under Sections 500, 501, 502, 120-B, 506 read with Section 34 IPC and for quashing of summoning order dated 05.12.2022 issued under Sections 500, 501, 502, 120-B, 506 read with Section 34 IPC.

2. The facts of the present case are that allegedly on 25.03.2019, the petitioner came to the house of the complainant and started clicking photos and making videos of his house and when the wife of the complainant saw the petitioner, he ran away from the spot. Hence, on the complaint made by her, an FIR No. 323 dated 22.04.2019 under Sections 384, 511, 504, 506 IPC, Police Station Civil Lines, Karnal was registered against the petitioner. The petitioner alongwith his co-accused after conspiracy with each other published a defamatory

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news article in newspaper *Majdoor Morcha, Faridabad* to take the revenge on lodging an FIR against him.

3. Learned counsel for the petitioner submits that the petitioner is a shopkeeper and he has no connection with the alleged defame news. He further submits that there is no recovery made from the petitioner regarding the alleged photographs or video taken on 25.03.2019, neither there is any photographs published in the said news item nor there is any reference of petitioner. He further submits that before filing complaint, complainant sent a legal notice dated 19.05.2019 to the editor, but there is no legal notice ever sent to the petitioner. He further submits that the present complaint was registered due to old enmity between the petitioner and sister-in-law of complainant as the petitioner has moved a complaint to Municipal Corporation, Karnal against her regarding the illegal encroachment on the public path in front of house.

4. Heard the rival submissions made by learned counsel for the petitioner.

5. The complainant – Balwinder Kalia appeared before the learned trial Court and reiterated the facts/contents of the complaint and made specific averments against the present petitioner expressing his role in the commission of the alleged offence. Learned trial Court after recording statement of the complainant *prima facie* satisfied itself regarding the commission of the offence before issuing notice to the petitioner. The trial Court while issuing summons in a complaint case is not bound to conduct a mini trial and while issuing summons the trial Court is only bound to *prima facie* satisfy itself that the case is made out on the basis of complaint, evidence including the statements of the complainant and witnesses.



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6. Hon'ble Supreme Court in Criminal Appeal No. 794 of 1991 titled as Mohinder Singh vs. Gulwant Singh and ors., decided on 17.12.1991 has observed as follows:

11. This Court as well as various High Courts in a catena of decisions have examined the gamut and significance of Section 202 of the Code and settled the principle of law, the substance of which is as follows :

*"The scope of enquiry under Section 202 is extremely restricted only to finding out the truth or otherwise of the allegations made in the complaint in order to determine whether process should issue or not, under Section 204 of the Code or whether the complaint should be dismissed by resorting to Section 203 of the Code on the footing that there is no sufficient ground for proceeding on the basis of the statements of the complainant and of his witnesses, if any. But the enquiry at that stage does not partake the character of a full dress trial which can only take place after process is issued under Section 204 of the Code calling upon the proposed accused to answer the accusation made against him for adjudging the guilt or otherwise of the said accused person. Further, the question whether the evidence is adequate for supporting the conviction can be determined only at the trial and not at the stage of the enquiry contemplated under Section 202 of the Code. To say in other words, during the course of the enquiry under Section 202 of the Code, the Enquiry Officer has to satisfy himself simply on the evidence adduced by the prosecution whether prima facie case has been made out so as to put the proposed accused on a regular trial and that no detailed enquiry is called for during the course of such enquiry. Vide **Vadilal Panchal v. Dattatraya Dulaji Ghadigaonkar, 1961(1) SCR 1 : AIR 1960 Supreme Court***



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*1113 and Pramatha Nath Talukdar v. Saroj Ranjan, 1962
Supp.(2) SCR 297."*

7. In view of the above, I do not find any merit in the present petition
and the same is, accordingly, dismissed.

23.10.2024
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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No