



CRM-M-53028-2024

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121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53028-2024

Decided on: 04.12.2024

Rajinder Kaur

..... Petitioner

Versus

Ajmer Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Aditya Dassaur, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of order dated 14.02.2023 (Annexure P-4) passed by learned JMIC, Jalandhar, whereby the complaint bearing No.COMI/220/2017, dated 15.06.2017 titled as Rajinder Kaur vs. Ajmer Singh, moved by the petitioner against the respondent under Sections 420, 465, 467, 471 IPC, has wrongly been dismissed and further for quashing of the order dated 20.08.2024 (Annexure P-6) passed by learned Sessions Judge, Jalandhar, whereby the revision filed by the petitioner against the order dated 14.02.2023 has also been wrongly dismissed.

2. Succinctly facts of the case are that the petitioner before this Court is the complainant, who filed the said complaint for the prosecution of the respondent-accused. Learned trial Court on hearing learned counsel for the petitioner and appreciating the preliminary evidence led and finding no merit in the same dismissed it vide impugned order dated 14.02.2023. Aggrieved by the same, the petitioner filed revision petition before learned Revisional Court, however, learned Revisional Court finding no infirmity in



the order passed by the trial Court, dismissed the same vide impugned order dated 20.08.2024 and thus, upheld the order passed by learned trial Court. Thus, both the trial Court and Revisional Court have given concurrent finding against the petitioner. Hence, the petitioner has approached this Court by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that both the learned trial Court and Revisional Court have fallen in error in misreading the preliminary evidence led by the complainant-petitioner and thus, have drawn a wrong conclusion in dismissing the same. He has submitted that as per the facts of the case, husband of the petitioner-complainant were two brothers i.e. S. Ujjal Singh and Ajmer Singh (respondent) and their father was S. Gian Singh. He has submitted that father-in-law of the petitioner had given Ajmer Singh in adoption to Bhajan Singh in the year 1970 and after adoption of Ajmer Singh, he had no right in the property of his natural father i.e. Gian Singh, but during the life time of Gian Singh, Ajmer Singh had claimed his share in the property of Gian Singh and due to pressure of Ajmer Singh-respondent, a share out of the property of Gian Singh was given to him. He has submitted that the respondent was intentionally maintaining two fake identities as Ajmer Singh son of Gian Singh i.e. the natural father and Ajmer Singh son of Bhajan Singh i.e. adoptive father. He has submitted that the respondent had purchased two plots, wherein, he has given his identity before the Registrar as Ajmer Singh son of Gian Singh and even for getting the electric connection for running his agricultural motors, he had written his name as Ajmer Singh son of Gian Singh. He, thus, submits that the respondent after



having been adopted had committed offence of cheating and impersonation by adopting two identities. He has submitted that preliminary evidence was led by the complainant-petitioner, wherein, the petitioner herself as CW-1, Sukhwinder Kumar, Consumer Clerk, Punjab Electricity Board as CW-2, Renu Samrat as CW-3, Shashi Bala Mahaja, Assistant Superintendent, Passport Office, Jalandhar as CW-4 and Jaswinder Singh, Clerk office of RTA, Jalandhar as CW-5 and duly proved a *prima facie* case against the respondent to be summoned for his prosecution, however, both the Courts below have failed to appreciate the same and thus, have drawn a wrong conclusion by passing the impugned orders, which are unsustainable in the eyes of law. He, thus, submits that the present petition be allowed by setting aside the impugned orders and the respondent be summoned to face the prosecution for the offences as alleged in the complaint.

4. After hearing learned counsel for the petitioner and perusing the record, it is deciphered that the precise issue raised by learned counsel for the petitioner is to the effect that the respondent has used two identities by showing himself as son of Gian Singh (natural father) and also son of Bhajan Singh (adoptive father). It is an admitted fact that Gian Singh is the biological father of respondent-Ajmer Singh. It has been alleged by the petitioner that the respondent was given in adoption to Bhajan Singh. The petitioner was to prove a *prima facie* case against the respondent for his summoning before the trial Court. The essential ingredients required for summoning of accused is the existence of *prima facie* case in favour of petitioner. The factum regarding Gian Singh being the biological father of the respondent, cannot be denied. On the other hand, if the respondent was



given in adoption to Bhajan Singh, then by using the name of his natural father, how any offence under Sections 420, 465, 467, 471 IPC, are made out, is beyond any comprehension of law. The petitioner failed to establish any *prima facie* case against the respondent. Both the trial Court and Revisional Court have appreciated the evidence led and have given concurrent findings.

5. Hon'ble Supreme Court in case of M/s Pepsi Foods Ltd. & Anr. v. Special Judicial Magistrate & Ors. (1998) 5 SCC 749 laid down the golden standard for summoning an accused in a Court case. Paragraph 28 therein is noteworthy and it reads thus:

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is *prima facie* committed by all or any of the accused.”

6. Hon'ble Supreme Court in Aniruddha Khanwalkar vs.

Sharmila Das, 2024 AIR Supreme Court 2802, has held that for summoning of an accused at preliminary stage, a *prima facie* case is to be made out on the basis of the allegations in the complaint and the pre-summoning evidence led by the complainant.

7. On the appreciation of the arguments raised and the record on the anvil of law settled by Hon’ble Supreme Court in abovesaid cases, this Court does not find any infirmity in the view taken by by the Courts below and thus, finding no merit in the present petition, the same is hereby dismissed.

04.12.2024

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No