



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-2303 of 2019

Reserved On: 22.09.2025
Pronounced On: 24.09.2025

Sanjeev Kumar Dua

... Petitioner(s)

Versus

Kashmiri Lal and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Achin Gupta, Advocate
for the petitioner(s).

Surya Partap Singh, J.

1. The summoning order dated 15.09.2017 passed by the Court of learned Chief Judicial Magistrate, Faridkot, in a criminal complaint has been reversed by the Court of learned Additional sessions Judge, Faridkot, on 27.11.2018. Aggrieved of the above mentioned order of reversal of summoning order, this petition under Section 482 of Cr.P.C. has been filed, whereby quashing of order dated 27.11.2018, hereinafter being referred to as “impugned order” only, has been sought.

2. In nut-shell, the facts emerging from the record are that the petitioner/complainant, hereinafter being referred as “petitioner” only, filed a complaint in the Court of learned Chief Judicial Magistrate, Faridkot, alleging therein that he is a Lecturer in Senior Secondary School, Bariwala and the respondent No.2 is the wife of petitioner’s brother, namely Rajiv Kumar. As per petitioner, they had a joint bank account and the salary of

respondent No.2 used to be credited in the above mentioned account. It was further alleged by the petitioner that the respondent No.1, being a greedy person, used to collect salary of the respondent No.2 and he used to interfere in the married life of the brother of petitioner and harassed him. According to petitioner, the respondent No.1 used to instigate the respondent No.2 against the brother of petitioner, and ultimately, the respondent No.2, with an intention to harass her husband, filed a complaint against the brother of petitioner, i.e. FIR No. 49 dated 17.08.2009, under Sections 406 and 498A of IPC. As per the petitioner, in addition to husband of respondent No.2, the mother sister and the brother, too, were implicated in the above-mentioned case as accused, with mala fide intentions to harass and harass the petitioner and others. According to petitioner, the respondent No.1 sent a complaint to higher authorities of the petitioner also and he received a copy of above mentioned complaint from his school.

3. The petitioner further alleged, in the above mentioned complaint, that false and derogatory allegations were mentioned against the petitioner in the above mentioned complaint. The extract of the same is as under:-

“1. That I want to attract your attention towards the activities of above teacher. This teacher often remain absent from the school because he is not enjoying good character. He is divorcee twice. The reason behind this divorce is the greed of Sanjeev Kumar and his family members. Now he has arranged his third marriage by inducing a computer teacher of his school who is half in age than him.

2. His younger brother who is a teacher. He married with my daughter in March 2001. He also used to have the

similar attitude and he used to follow the steps of his brother. Being harassed from it, I got registered a case u/s 498-A/406 against him. He is absconding and the police is in his search.

3. *He is also having a sister who is married at Moga. Her divorce case is pending due to him.*
4. *He often attends the courts and their cases are pending at Faridkot- Moga- Chandigarh, Mansa etc.*
5. *You can imagine that if this teacher can give good education to students in the school? He is not entitled to be called as a teacher ethically.*

Kindly enquired into the matter and a suitable action be taken against said teacher so that he may not play with the future of the kids and the welfare of country and society lies in it. With Thanks. Kashmiri Lal.”

4. While alleging that the above mentioned complaint was totally false, and has been filed with a malafide intention to harm his reputation, the petitioner; filed a complaint in the Court of learned Chief Judicial Magistrate, Faridkot, who, after recording the preliminary evidence, observed that there was sufficient, *prima facie*, case to take cognizance against the respondents, and thus, passed the summoning order dated 19.03.2012, for the offence punishable under Sections 499, 500, 506 and 34 IPC.

5. The respondents, who were aggrieved of the summoning order, preferred revision petition against the above mentioned order and the learned Additional Sessions Judge, by virtue of impugned order set aside the above mentioned order by observing that the order dated 15.09.2017 was patently illegal and deserved to be set aside. As a result of above mentioned

observations, while setting aside the order dated 15.09.2017, the complaint was dismissed by the Court of learned Additional Sessions Judge.

6. Heard.

7. It has been argued by learned counsel for the petitioner that the revision petition preferred by the petitioner on the ground that without proper appreciation of fact as well as law, a wrong conclusion has been drawn by the learned Additional Sessions Judge while accepting the revision petition preferred by the respondents, and that the findings recorded by the learned Additional Sessions Judge, being contrary to the settled proposition of law, needs interference and indulgence of appellate jurisdiction of this Court. According to petitioner, merely on the ground of whims and fancies, the learned Additional Sessions Judge has observed that there was no sufficient ground to take cognizance for the commission of offence punishable under Sections 499, 500, 506 and 34 IPC. As per the petitioner, in fact a right conclusion was drawn by the Court of learned Chief Judicial Magistrate and there was no scope for interference and indulgence in the order dated 15.09.2017.

8. The record has been perused carefully.

9. In the present case, one of the core issues to be determined is as to whether filing a complaint against a public servant to his higher authorities amounts to commission of offence punishable under Sections 499, 500, 506 and 34 IPC or not. In this regard, the observation made by this Court in the case of ***Harcharan Singh v. Hari Singh (Criminal Misc. No. 1306-M of 1992, decided on 19.11.2001)*** are relevant. Those are:-

“The main ground taken in the petition seeking quashing of the impugned orders is that the respondents by sending the

complaints to various authorities noticed above have published false allegations levelled against the petitioner which led to initiation of enquiry. The assertion that the allegations were false is supported by the fact that during the enquiry the allegations were not substantiated. The action of the accused has not only caused mental torture to the petitioner but has also lowered his esteem among the colleagues, friends and relatives and the evidence in support thereof examined by him in preliminary evidence before the Court of Judicial Magistrate, Ist Class have not been given due consideration by the Courts below. It cannot be denied that Tarlok Singh accused No. 2 had addressed the complaints to the Director, Food and Supplies, Punjab, Chandigarh and the Managing Director, Water Supply and Sewerage Board, Punjab, Chandigarh. Another complaint dated 23.1.1987 was addressed by him to the Secretary to the Government of Haryana, Department of Vigilance, Chandigarh which was followed by another complaint made by him on 18.1.1988 to the Chief Minister, Haryana, Chandigarh. The fact remains that core issue to be decided is whether sending of these complaints to the above mentioned authorities amounts to defamation and can be construed as publication within the ambit of Section 500 I.P.C. The word 'defamation' has been defined in Section 499 I.P.C. which lays down as under:-

"499. Defamation. - Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person."

From the aforesaid provisions, necessary ingredients which are discernible are as under :-

(i) Making or publishing any imputation concerning

any person;

(ii) Such imputation must have been made by :-

(a) words either spoken or intended to be read;

or

(b) signs; or

(c) visible representation.

(iii) Such imputation must have been made with intention of harming or knowing or having reason to believe that such imputation will be harming the reputation of the person concerned to whom it is made.

9. *The above requirements of the section leave no manner of doubt that intention to cause harm is the very foundation of the offence under Section 499 I.P.C. The manifestation of the intention has to be gathered from the accusation made in the communication to an authority as to whether they intend to lower the petitioner in the estimation of others. Such a situation arises when the imputations are made public. Otherwise the maker of the imputations without publication would not be liable under this Section. In this case the sole purpose of making complaints by the accused to the authorities referred to above was to bring to their notice the factual position which they had gathered in good faith about the petitioner. It was not made public and rather, it was left to the authorities concerned to take into account the allegations made for appropriate action in the matter. Therefore, from the evidence and documents on record, it cannot be said that accused intended to publish the contents of the letter to other persons as sought to be projected by the complainant himself and the other witnesses examined. Thus, no fault can be found with the orders of the Courts below in dismissing the complaint."*

10. Here, it shall not be out of place to mention that in the instant case, there is no denial of the fact that the complaint preferred by the

respondent No.1 was addressed to various senior authorities of the petitioner. However, the significant fact to be noted is that there is no allegation that the above mentioned complaint was circulated amongst the public, relatives or the social circle of the petitioner. Since only the departmental proceedings could have been initiated on the basis of above mentioned complaint, and it has never been brought to the notice of general public, it is hereby held that essential ingredients meant for the commission of offence punishable under Sections 499, 500, 506 and 34 IPC are not made in the instant case.

11. It is also relevant to note that Sections 499, 500, 506 and 34 IPC lay down that an offence under Section 499 IPC is made out when by words either spoken or intended to be read, or by signs or by visible representations, any imputation concerning any person is made or published with an intention to harm the reputation of such person. Thus, in the above-mentioned circumstances only an act may amount to defamation. The above said ingredients for the above mentioned offence is harm to the reputation. Since in the case in hand, there was no allegation that the contents of complaint, whereby the reputation of the petitioner could have been harmed, were brought into the knowledge of public, it is hereby held that a right conclusion has been drawn by the learned Additional Sessions Judge, by holding that the essential ingredients meant for the commission of offence punishable under Section 499 IPC are not there.

11. As a sequel to above mentioned observations, once a right decision has been taken by the learned Additional Sessions Judge while allowing the revision petition, it is hereby held that there is no scope for interference and indulgence in the verdict rendered by the learned revisional

Court and the present being devoid of merit deserves dismissal. Hence, the same is hereby dismissed.

(Surya Partap Singh)
Judge

September 24, 2025
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No