



CRM-M-10327-2025

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**132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-10327-2025

Decided on: 24.02.2025

Pargati

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Dr. Jaiveer Singh Malik, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for setting aside the impugned order dated 24.10.2024 passed by learned District and Sessions Judge, Bhiwani and order dated 22.12.2023 passed by learned JMIC, and issuance of direction to learned trial Court for issuance of notice to respondents No.2 to 5 under the relevant provisions of law for defamation.

2. Succinctly, the facts of the case are that the petitioner before this Court is the complainant who filed a complaint under Sections 499, 500 IPC against respondents No.2 to 5 and one Mushtaq. It was primarily alleged in the complaint that she was married with Manoj Kumar. Her brother-in-law Yogesh got married with respondent No.2-Suman on 15.03.2020, but due to matrimonial dispute, her wife i.e. respondent No.2 filed a complaint at Women Police Station regarding demand of dowry etc. In the Police Station, woman officer called the petitioner and her brother-in-law Yogesh and read the contents of the complaint loudly before the persons present there, wherein, respondent No.2 levelled allegations of illicit relationship between the petitioner and her brother-in-law. It was



alleged that accused have tarnish the reputation of the petitioner in the society and thus, committed offence under Sections 499 and 500 IPC. Hence, prayer was made to summon the accused under Sections 499 and 500 IPC for the offence of defamation and impose upon them a strict punishment as per law. On filing of the complaint, learned trial Court allowed the complainant to produce the preliminary evidence. After hearing the complainant and appreciating the preliminary evidence, learned trial Court found no *prima facie* having been made out against the accused and thus, dismissed the complaint vide order dated 22.12.2023. Aggrieved by the same, the petitioner assailed the order dated 22.12.2023 before learned Revisional Court by way of filing criminal revision petition, however, learned Revisional Court also found no merit in the same and dismissed the revision petition vide impugned order dated 24.10.2024. Thus, both the Courts i.e. learned trial Court and Revisional Court gave concurrent findings that no *prima facie* case as alleged by the petitioner is made out. Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the impugned orders are totally unsustainable in the eyes of law as the preliminary evidence led by the petitioner have been misread. He submits that the petitioner was defamed by the private respondents by levelling false allegations against her. He submits that a *prima facie* case for summoning of the accused was made out, however, both the Courts failed to appreciate the same. He submits that essential ingredients for constituting offence under Sections 499 IPC are completely fulfilled and thus, the impugned



order being illegal and just, deserves to be set aside by summoning the private respondents to face the trial.

4. After hearing learned counsel for the petitioner and perusing the record, it is evident that the petitioner filed a complaint primarily on the allegations of defamation against the private respondents. The petitioner led preliminary evidence and the same was appreciated by learned trial Court. From the record, it is deciphered that FIR Ex.C-3 was got registered on the complaint given by respondent No.2 against the petitioner and other accused. The same is under investigation and no final report under Section 173 Cr.P.C. has yet been filed. Respondent No.2 has availed her legal remedy by getting the FIR registered and the case has not finally been decided by the Court, so only filing of FIR in itself does not fulfill the necessary ingredients for summoning the respondents to face the trial.

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 of a person as 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.

6. Learned Revisional Court also re-appreciated the same and found no infirmity in the order passed by learned trial Court. On weighing the facts and circumstances of the case on the anvil of the law settled, this Court does not find any perversity in the orders passed by both the Courts i.e. trial Court and Revision Court as no *prima facie* case is made out against the respondents on the basis of allegation made in the complaint. Thus, there being no merit in the present petition, the same is hereby dismissed.

24.02.2025

sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE