



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

CRM-M-40244-2023
Reserved on 13.12.2024
Date of decision: 21.01.2025

Rajiv Lal

...Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. S.D. Singh, Advocate,
Ms. Shweta Sinha, Advocate for
Mr. Mohan Singh Rana, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

None for respondent No.2.

KARAMJIT SINGH, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of summoning order dated 12.01.2023 (Annexure P-17) passed by the Court of Judicial Magistrate Ist Class, Faridabad in criminal complaint No.1892 of 2022 titled Rishab Jaini Vs. Rajiv Lal and others.

2. In response to notice of motion, Mr. Ashish Malik, Advocate appeared on behalf of complainant/respondent No.2 while the State counsel appeared on behalf of respondent No.1-State. However, subsequently, none put in appearance on behalf of respondent No.2.

3. The brief facts of the case are that respondent No.2/complainant presented an application dated 23.06.2022 (Annexure P-1) under Section 156 (3) Cr.P.C seeking directions to register an FIR and to investigate the matter. In



application Annexure P-1, it was alleged that accused No.3 Nidhee Bhatnagar joined as Executive Assistant in the office of M.K. Petro Products India Limited on 02.01.2019 and she signed a non disclosure, non solicitation and confidentiality agreement with the aforesaid company. In the same manner, accused No.2 Dheeraj Bhatia also joined the said company as a Manager on 18.01.2019 and he also executed similar type of agreement with the aforesaid company. On 27.01.2022, Nidhee Bhatnagar was caught red handed while she was leaking the confidential information and trade formulas of the company to petitioner/accused No.1. Nidhee Bhatnagar confessed her guilt and signed her resignation. Even Dheeraj Bhatia who was also involved in similar type of activities, submitted his resignation on 23.02.2022. That on 30.04.2022 at about 6 PM, complainant and his wife Kirti Verma were going towards their house from the office situated in Ballabhgarh. Their car was intercepted by petitioner-Rajiv Lal and accused No.2 Dheeraj Bhatia and they started abusing complainant and his wife. The said accused forcibly took the complainant out of his car and started kicking and slapping him and also extended threats to the complainant. A complaint dated 21.05.2022 (Annexure P-2) was lodged in Police Station Sadar Ballabhgarh, District Faridabad with regard to aforesaid incident of assault. However, the police failed to take any action against the accused persons. Hence, application under Section 156 (3) Cr.P.C was presented in the Court of area Magistrate concerned. The said Court called for action taken report from the concerned SHO. The action taken report Annexure P-5 was received and thereafter, the Court concerned declined to send the matter to the police for registration of FIR. However, liberty was granted to the complainant to pursue the said application as a private complaint under Section 200 Cr.P.C. After recording of the preliminary evidence, the learned trial Court passed



summoning order dated 12.01.2023 Annexure P-17 vide which petitioner and Dheeraj Bhatia are directed to be summoned for commission of offences under Sections 323, 506 read with Section 34 IPC, while the complaint was dismissed in toto qua accused No.3-Nidhee Bhatnagar and was also dismissed qua petitioner and Dheeraj Bhatia regarding commission of offences under Sections 406, 409 read with Section 34 IPC.

4. The counsel for the petitioner has inter alia submitted that all the allegations made in the complaint Annexure P-1 are totally false. That trial Court disbelieved the allegations made by the complainant with regard to theft of data belonging to M.K. Petro Products India Private Limited, against all the three accused persons. It has been further submitted that actually, petitioner and Sudhir Kumar Jaini father of respondent No.2/complainant were directors of M/s Divine Thermal Wrap Private Limited and they executed Memorandum of Understanding (in short 'MOU') dated 15.12.2021 Annexure P-11 whereby Sudhir Kumar Jaini agreed to sell his entire shares in aforesaid company in favour of petitioner. On the basis of said MOU, the total due amount of aforesaid shares was paid by the petitioner to Sudhir Kumar Jaini but Sudhir Kumar Jaini was reluctant to transfer his shares in favour of the petitioner. The counsel for the petitioner has further argued that in order to pressurize, the petitioner not to act upon aforesaid MOU and to wreak vengeance, complainant being son of Sudhir Kumar Jaini concocted alleged incident of assault dated 30.04.2022 and lodged false complaint Annexure P-1 with the area Magistrate concerned. It has been further submitted that there is delay in lodging of said complaint and further in the earlier complaint Annexure P-2 dated 21.05.2022 lodged with the police, there was no mention of any such incident dated 30.04.2022. The counsel for the petitioner further submits that summoning order



Annexure P-17 was passed by the trial Court on the basis of statements of complainant and his wife without having any independent corroboration in the form of medical evidence. It has been further submitted that even the status report Annexure P-5 submitted by concerned SHO is also not taken into consideration by the trial Court while passing the impugned order. That as per the said status report, the complainant failed to present any evidence against the accused persons, before the police. It has been further submitted that the summoning order Annexure P-17 was passed by the learned trial Court in a mechanical manner without application of mind and thus, is not legally tenable. In support of his contentions, the counsel for the petitioner has placed reliance upon the decision of Hon'ble Supreme Court in ***Suresh Kumar Goyal and others Vs. State of Uttar Pradesh and another (2019) 14 SCC 318*** wherein a criminal complaint alleging betrayal and cheating relating to shares of company, filed as a counter blast to wreak vengeance, by complainant therein against his family for disowning him, was quashed.

5. Counsel appearing on behalf of respondent No.1-State has submitted that the impugned summoning order is passed by the trial Court in a private criminal complaint lodged by respondent No.2 against petitioner and one another person. That the State has nothing to do with the said private criminal complaint, as the lis is between two private parties.

6. I have considered the submissions made by counsel for the petitioner and the State counsel.

7. It is the duty of the High Court, when its jurisdiction under Section 482 Cr.P.C or Article 226 of the Constitution is invoked on the ground that the complaint is manifestly frivolous, vexatious or instituted with ulterior motive for wreaking vengeance, to examine the allegations with care and caution.



8. In the instant case, complainant/respondent No.2 filed criminal complaint Annexure P-1, under Section 506, 323, 406, 409, 426 and 34 IPC against petitioner, Dheeraj Bhatia and Nidhee Bhatnagar wherein petitioner and Dheeraj Bhatia are summoned by the learned trial Court to face trial under Sections 323, 506 read with Section 34 IPC vide order dated 12.01.2023 Annexure P-17, while the criminal complaint against Nidhee Bhatnagar was dismissed in toto and the complaint was also dismissed under Sections 406, 409 and 426 IPC against petitioner and Dheeraj Bhatia. Admittedly, complainant has not challenged the order Annexure P-17 to the extent the complaint was dismissed against petitioner, Dheeraj Bhatia and Nidhee Bhatnagar. In the given circumstances, this Court is not going to examine the allegations made by complainant/respondent No.2 in complaint Annexure P-1 against petitioner, Dheeraj Bhatia and Nidhee Bhatnagar with regard to leakage of the confidential information and trade formulas and theft of data of the company run by the complainant/respondent No.2.

9. From the perusal of the record, it appears that petitioner and Dheeraj Bhatia are summoned under Section 323, 506 read with Section 34 IPC on the basis of allegations made by the complainant/respondent No.2 in his complaint Annexure P-1 to the effect that on 30.04.2022 at about 6 PM, the aforesaid two accused intercepted the car of complainant wherein his wife Kirti Verma was also traveling with him and then both the said accused started abusing the complainant and his wife and they forcibly pulled out the complainant and started kicking and slapping the complainant and also extended threats to him.

10. Complainant himself appeared in the witness box as CW-1 and also examined his wife Kirti Verma as CW-2 and closed his preliminary



evidence and thereafter, the learned trial Court passed impugned order Annexure P-17 against the petitioner and Dheeraj Bhatia. Undoubtedly, no medical record was produced by the complainant to corroborate the alleged incident of assault dated 30.04.2022.

11. As per the allegations made in complaint Annexure P-1, it appears that with regard to incident dated 30.04.2022, the complainant lodged one complaint dated 21.05.2022 Annexure P-2, with the police authorities of Police Station Sadar, Ballabhgarh, Faridabad. Admittedly, the said complaint was given to the police by the complainant after about three weeks of the aforesaid incident dated 30.04.2022 without any explanation with regard to said delay. After going through police complaint Annexure P-2, it is evident that the said complaint is totally silent with regard to incident of assault dated 30.04.2022. In the said complaint Annexure P-2 only allegations made were with regard to leakage of the confidential information and trade formulas and theft of data of the company run by the complainant/respondent No.2. The mentioning of incident of assault dated 30.04.2022 in subsequent criminal complaint Annexure P-1 dated 23.06.2022, which the complainant could have disclosed to the police at the time of lodging of police complaint dated 21.05.2022 Annexure P-2, would raise doubt about the said incident of assault, as it indicates an afterthought.

12. Further, it has been brought on record by the counsel for petitioner that Sudhir Kumar Jaini father of complainant/respondent No.2 and present petitioner were directors of M/s Divine Thermal Wrap Limited and they executed MOU dated 15.12.2021 Annexure P-11, wherein petitioner was depicted as RLNL and Sudhir Kumar Jaini was depicted as SKNJ and Divine Thermal Wrap Private Limited through its directors Nibha Lal and the petitioner



was depicted as DTWPL. As per said MOU, SKNJ decided to part way with the existing arrangements and offered to sell its entire stake in DTWPL at a negotiated price of Rs.1/- per share aggregating to Rs.15 lacs as per valuation and it was agreed that RLNL shall acquire entire share holding of SKNJ to have full control i.e. 100% stake in DTWPL and it was further agreed that RLNL and SKNJ shall execute a share purchase agreement within 60 days of signing of the said MOU or any period extended with mutual consent. Father of the complainant namely Sudhir Kumar Jaini submitted his resignation from the post of director vide letter dated 15.12.2021 and the resignation appears to be accepted on the same very day. The counsel for the petitioner has also brought to the notice of this Court that subsequently, Sudhir Kumar Jaini failed to comply with the terms and conditions of MOU and then M/s Divine Thermal Wrap Private Limited, Nibha Lal and present petitioner being directors filed application (Annexure P-13) under Section 9 of the Arbitration Act, 1996 against Sudhir Kumar Jaini and his wife, on 12.03.2022 and the opposite party filed its reply Annexure P-14 wherein execution of MOU was admitted, however, it was alleged that the default is on the part of the petitioner and other directors of Divine Thermal Wrap Limited. From the perusal of Annexure P-16, it appears that Sudhir Kumar Jaini and his wife also approached the National Company Law Tribunal, New Delhi (in short 'NCLT') and filed petition under Sections 241, 242 and 244 of the Companies Act against the present petitioner and Divine Thermal Wrap Private Limited and its other director. Counsel for the petitioner also referred to order dated 07.12.2023 passed by NCLT and the same was taken on record, As per said order dated 07.12.2023, the petition was closed as Sudhir Kumar Jaini gave undertaking that he would not interfere with the affairs of M/s Divine Thermal Wrap Private Limited.



13. In light of the afore-discussed facts and circumstances of the case coupled with the fact that the complaint/respondent No.2 who is son of Sudhir Kumar Jaini who is having dispute with the petitioner with regard to transfer of shares of M/s Divine Thermal Wrap Private Limited and further the complaint Annexure P-2 was lodged with the police after delay of about 21 days of the alleged incident of assault and furthermore, in the said complaint there is no mention with regard to incident of assault dated 30.04.2022, it could be easily inferred that complaint Annexure P-1 with regard to incident of assault dated 30.04.2022 is manifestly attended with malafide and is maliciously instituted with an ulterior motive for wreaking vengeance on the petitioner and with a view to spite him due to private and personal grudge.

14. In the light of the law laid down by Hon'ble Supreme Court in ***Suresh Kumar Goel's case (supra)*** the criminal proceeding initiated on the basis of criminal complaint Annexure P-1 is an abuse of the process of Court and is requires to be quashed.

15. The present petition is allowed and summoning order dated 13.01.2023 Annexure P-17 is hereby quashed qua the petitioner.

21.01.2025

YOGESH

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No