

(2013) 08 P&H CK 0612

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-40025 of 2012

Atma Singh

APPELLANT

Vs

Kuldeep Singh

RESPONDENT

Date of Decision: Aug. 21, 2013

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 120B, 182, 420, 465, 467

Hon'ble Judges: Inderjit Singh, J

Bench: Single Bench

Advocate: Vikas Singh, for the Appellant; Navkiran Singh, for the Respondent

Final Decision: Allowed

Judgement

Inderjit Singh, J.

Petitioner Atma Singh, Lamberdar has filed this petition u/s 482 Cr.P.C. for quashing of complaint No. 45 of 5.4.2005/162T/05/5.4.2005 titled as Kuldeep Singh versus Karnail Singh and others filed for the offences under Sections 420, 465, 467, 471 and 120-B IPC pending before Judicial Magistrate Ist Class, Patiala and the summoning order dated 4.9.2012, whereby the petitioner and other accused have been summoned and all consequential proceedings arising out of the complaint as the same are abuse of the process of law. The brief facts of the present case are that respondent Kuldeep Singh filed the complaint against the petitioner and other persons with the allegations that date of birth of daughter of Karnail Singh (accused No. 1 in the complaint), namely, Rajwinder Kaur is 23.11.1976 and in school certificate her date of birth is recorded as 10.7.1976, but Karnail Singh made an application that her date of birth was 23.2.1976, therefore, the entry be made in the relevant revenue record and the birth certificate may be issued. The competent authority recorded the evidence. The petitioners' affidavits were produced, school record was examined and after going through the evidence, including the letter from the school, the competent authority entered the date of birth of Rajwinder

Kaur as 23.2.1976 and issued the birth certificate. The respondent filed criminal writ petition No. 339 of 1996 and he was relegated to the remedy before the Senior Superintendent of Police, Patiala vide judgment dated 20.3.1996. Thereafter, the respondent filed Criminal Misc. No. 21657-M of 1997, which came up before this Court on 5.8.1997 and was dismissed as withdrawn. The respondent in spite of the judgment of this Court filed complaint on 26.8.1997 on the same facts on the basis of which the present complaint has been filed. Summoning order was passed by the Judicial Magistrate Ist Class, Patiala on 19.9.1998 in that case. The complaint and the summoning order were challenged by Karnail Singh (accused No. 1 in the complaint) by filing Criminal Misc. No. 33352-M of 2001. A copy of the petition is attached with this petition as Annexure-P.2. In the meantime, FIR No. 1055 dated 22.11.2001 was registered on the same facts, which form the basis of the complaint filed earlier. The Police after due investigation submitted cancellation report and also recommended that the case should be registered u/s 182 IPC against the respondent. The earlier complaint as well as the summoning order were quashed by this Court vide judgment dated 6.8.2002.

2. The only point to be determined in the present case is whether the second complaint can be filed on the same facts and on the same allegations, regarding which the complaint as well as the summoning order were quashed by this Court. The only argument which learned counsel for the respondent has given is that the respondent has discovered a new evidence and, therefore, complaint has been filed.

3. On the other hand, learned counsel for the petitioner contended that this fact cannot be the base for filing fresh complaint when the earlier complaint on the similar allegations has already been quashed.

4. From the record, I find that only on the basis that some fresh evidence has been discovered, which was not mentioned in the earlier complaint, is no ground to file fresh complaint after the quashing of the complaint as well as the summoning order earlier by this Court. It rather, amounts to abuse of the process of the Court. If this plea is allowed, then there will be no end to the litigation. Even after quashing of this complaint and the summoning order, the respondent may file another complaint by stating that he has now discovered some more evidence. Therefore, it is clearly an abuse of the process of the Court. Therefore, without going into the merits of this case in detail, only on this ground that earlier the complaint and summoning order on the same facts have been quashed, the present petition is allowed and complaint No. 45 of 5.4.2005/162T/05/5.4.2005 titled as Kuldeep Singh versus Karnail Singh and others filed for the offences under Sections 420, 465, 467, 471 and 120-B IPC pending before Judicial Magistrate Ist Class, Patiala and the summoning order dated 4.9.2012 and all subsequent proceedings are quashed being abuse of the process of the Court and law. As the respondent has filed a complaint even after the quashing of earlier complaint on the similar facts with mala fide intention to harass the petitioner etc., therefore, respondent Kuldeep Singh is

directed to deposit Rs. 20,000/- as compensation for payment to the petitioner within one month from today in the trial Court.