
(2014) 07 P&H CK 0793

High Court Of Punjab And Haryana At Chandigarh

Case No: CRM-M-17055 of 2014

Rulia Ram

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: July 16, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 397, 482
- Penal Code, 1860 (IPC) - Section 323, 506

Hon'ble Judges: Rekha Mittal, J

Bench: Single Bench

Advocate: Ram Pal Verma, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Rekha Mittal, J.

The petitioner has filed the instant petition by invoking Section 482 of the Code of Criminal Procedure (in short "Cr.P.C.") seeking quashing of order dated 27.3.2014 (Annexure P-6) passed by the Additional Sessions Judge, Hisar whereby order dated 23.4.2011 (Annexure P-4) passed by the Judicial Magistrate 1st Class, Hisar has been set aside.

2. The brief backdrop of this case is that the petitioner filed a complainant under Sections 323, 506 of the Indian Penal Code (in short "IPC") against Group Captain Kulwant Singh, Air Headquarter, Air Force Station, Delhi in the Court of Judicial Magistrate 1st Class, Hisar on the allegations that the complainant made several complaints against the accused in regard to embezzlement/misappropriation of funds in his capacity as an officer of the Air Force. On 21.4.2010, he along with Joginder Kumar went to the office of the accused to enquire about the subject matter of letter sent to him by the higher authorities. The accused got enraged and caught hold of him by neck and gave fist blows by saying "To Mera Kya Bigar Lega". When the complainant raised alarm for help, Joginder Kumar and other employees

rescued him from the clutches of the accused. The accused threatened the complainant to be done to death in case, he carries out any action or makes departmental complaint against him.

3. During preliminary enquiry, the complainant examined himself and Joginder Kumar to depose about the occurrence dated 21.4.2010. The learned trial court issued process against the accused to face trial for committing offence punishable under Sections 323 and 506 IPC. The respondent preferred a revision petition u/s 397 Cr.P.C. which has been disposed of by the Additional Sessions Judge, Hisar and the order passed by the trial court has been set aside.

4. Counsel for the petitioner contends that the revisional court gravely erred in setting aside order passed by the Judicial Magistrate, therefore, the petition may be allowed and order dated 27.3.2014 passed by the Additional Sessions Judge be set aside and the order passed by the Judicial Magistrate be restored with a direction to the respondent to face proceedings in accordance with law. It is further argued that on conclusion of preliminary enquiry, the court is required to examine if there is prime facie case to summon the accused and at this stage, the court cannot go into truth or falsity of allegations to record a finding if evidence on record is sufficient to result in conviction of the accused.

5. I have heard counsel for the petitioner and gone through the case file.

6. The petitioner initiated criminal proceedings against one of the officers of Air Force and the petitioner is also working in the Air Force. The petitioner has levelled allegations against the respondent for causing simple hurt as well as criminal intimidation. Statement of the petitioner recorded during preliminary enquiry and so also the order passed by the revisional court would reveal that the petitioner never submitted any complaint to the departmental authorities in regard to the alleged misconduct of the respondent. He did not approach any police authorities for lodging his grievance against the respondent. With regard to the alleged occurrence dated 21.4.2010, the petitioner filed criminal complaint on 23.4.2010. The allegations of giving first blows are vague as there is no reference to the part of body afflicted with such blows.

7. per allegations, the petitioner had himself gone to the office of the respondent without his having any official work with the respondent, working as Group Captain at Headquarter of Air Force Station, Delhi. No doubt, the Court at the stage of summoning an accused in a complainant case has to examine if there is a prima facie case made out against the accused but summoning a person in the criminal proceedings is a serious matter, therefore, the court is required to go into truth or falsity of the allegations and can put questions to the witnesses to extract truth, as has been held by the revisional court. I find fortification to my observations from the judgments of Hon"ble the Supreme Court of India in [Chandra Deo Singh Vs. Prokash Chandra Bose and Another](#), and [Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalqi](#)

[and Others.](#)

8. view of the above, I do not find any error much less illegality in the impugned order as would call for intervention.

9. missed.