
(1995) 08 P&H CK 0046

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 16157-M of 1993 and Criminal Miscellaneous No. 11 of 1994

Badkshish Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 07-08-1995

Acts Referred:

Citation : (1996) 3 AICLR 409 : (1995) 3 AICLR 607 : (1996) 1 RCR(Criminal) 178

Hon'ble Judges : Sarojnei Saksena, J

Advocate : Rajesh Gumber, R.S. Bains, Advocates for appearing Parties

Judgement

Dr. Sarojnei Saksena, J.

1. The petitioner has filed this petition under section 482 Cr.P.C. for quashing the complaint filed under sections 468/ 469/ 471/ 506/ 120B/ 34 IPC against him by respondent No. 2.

2. Respondent No. 2 Complainant was appointed Principal, Khalsa College, Garhdiwala, district Hoshiarpur, on April 8, 1983. As there was a change in the Management Committee on February 4, 1986, the complainant submitted his resignation from that post and thereafter the petitioner was appointed as acting Principal. Complainant lodged a complaint on February 18, 1986, at Police Station Tanda implicating Harbhajan Singh Dhatt accused No. 1. In that complaint there was no mention of accused Nos. 2 and 3 regarding these offences. This complaint was investigated by the Police and they submitted a report that no forgery had been committed by accused No. 1. Hence the FIR/ complaint was cancelled and a report was sent on December 24, 1986. Thereafter the complainant again pressed for another investigation by a different Police Officer. Further investigation was held. Again the same conclusion was arrived at. Thereafter on April 16, 1987, the complainant filed a complaint against Harbhajan Singh Dhatt, the petitioner as accused No. 2 and Pritam Singh, Head Clerk. Copy of the complaint is at Annexure P3.

3. Respondent No. 2 Complainant also filed a civil suit on July 16, 1986 for declaration that he continues to be the Principal of Khalsa College, Garhdiwala. He obtained an ex parte stay order in his favour, which was later on vacated on December 1, 1986. Thereafter proceedings before the Criminal Court were stayed vide order dated May 30, 1988. The complainant filed a Criminal Revision in this Court, which was dismissed on May 26, 1992. Thereafter proceedings in the Criminal Complaint were restored and the case was fixed for complainant's evidence on December 2, 1993.

4. Petitioner's contention is that in the complaint no allegation is made against him that he forged the resignation of the complainant dated February 4, 1986, and, secondly, since the civil suit is pending the complaint on that very cause of action is liable to be quashed.

5. Complainant's counsel submitted that in the Civil suit it is held by the Civil Court that the petitioner and Harbhajan Singh Dhatt have forged resignation of the complainant. Hence, the finding of the Civil Court is binding on the Criminal Court. Under these circumstances, the criminal complaint cannot be quashed.

6. In reply, petitioner's counsel, relying on Garikapati Veeraya v. N. Subiah Choudhry and others, AIR 1957 S.C. 540; Shyam Sunder Lal v. Shagun Chand, AIR 1967 Allahabad 214; and Mahangu Prasad Sah and another v. Prayag Sah and others, AIR 1975 Gauhati 40, contended that appeal has been filed against that judgment and decree and since appeal is a continuation of the suit, it cannot be said that finally it is adjudicated that the petitioner was also a party to the fabrication of the said resignation.

7. It is settled legal position that findings of the Civil Court are binding on Criminal Court. It is not disputed that Civil Court has held that the petitioner and Harbhajan Singh Dhatt have fabricated the resignation of the complainant dated February 4, 1986. No doubt, appeal is pending against that judgment and decree and appeal is a continuation of the suit, but nevertheless in view of this finding of the Civil Court there is no ground to quash the complaint. Further, the complaint was filed on April 16, 1987. He was summoned by order dated November 7, 1987. He has filed this petition on November 30, 1993, after a lapse of six years. The Civil suit was decided on March 17, 1992. He has not pleaded in this petition that the civil suit has been decided on March 17, 1992. After recording preliminary evidence, summoning order was passed against the petitioner. He appeared before the trial Magistrate and never made such a prayer before the trial Magistrate. No doubt, he was not a party in that civil suit, but nevertheless the finding recorded therein will have material bearing on the decision of this complaint. The complainant has to adduce evidence to prove his allegations. The criminal case is at the evidence stage. Hence, under these circumstances, it cannot be said that the complainant is only an abuse of the process of the Court.

8. Accordingly, the petition is dismissed, but as the appeal is pending, till the decision of the appeal the Criminal proceedings pending in the Magistrate's

Court shall remain stayed.