
(2007) 05 P&H CK 0173
In the Punjab And Haryana At Chandigarh

Hari Jai Singh, Editor-in-Chief, The Tribunal and Another	APPELLANT
Vs	
Jatinder Mohan Bajaj and Others	RESPONDENT

Date of Decision : 23-05-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 34, 427, 500, 501

Citation : (2007) 4 PLR 214 : (2010) 4 RCR(Criminal) 475

Hon'ble Judges : S.D. Anand, J

Bench : Single Bench

Judgement

S.D. Anand, J.—Hari Jai Singh, Editor-in-Chief, the Tribune and Bipin Bhardwaj, Correspondent, the Tribune have filed the present petition u/s 482 of the Code of Criminal Procedure to obtain quashment of the complaint dated 21.2.2000 (Annexure P3) and the summoning order dated 17.5.2000 (Annexure P5) passed by the learned Trial Magistrate.

2. The facts, relevant for purposes of disposal of the present controversy before this Court, are as under:

3. Respondent No. 1 - Jatinder Mohan Bajaj is an Advocate practising in the District Courts, Chandigarh. Respondents No.2 and 3 (husband and wife inter-se) engaged him as their counsel in three First Information Reports bearing No. 16, 18 and 32 of 1998, pending in different Courts at Chandigarh. Respondents No. 2 and 3 were bailed out in those cases. In case F.I.R. No. 16 of 12.2.1998, the Court also ordered the release of passports in the name of respondent-Mustafa and his brother Jamshid on sapurdaginama in the sum of Rs. 50,000/- each. Those two persons did not fulfil the undertaking given by them to the Court through the aforesaid sapurdaginama that they will surrender their passports after the indicated period of time. Thereafter, there was some sort of bitterness between respondents No. 2 and 3 on the one hand and respondent No. 1 on other hand. Respondents No. 2 and 3 thereupon engaged Another counsel to represent them before the Court. Respondent No. 3-Mustafa lodged an F.I.R.

No.0086 dated 17.2.2000, u/s 506, 323/34 of the Indian Penal Code with the Police of Police Station Central, Sector 17, Chandigarh. In the course thereof, he made an allegation of having been belabored by respondent No. 1 and certain associates of his when he (respondent No. 3) was on way to the Chamber of newly engaged Advocate. In the course of that F.I.R., a grievance was made of that fact that respondent No. 1 and certain associates of his when he (respondent No. 3) was on way to the Chamber of newly engaged Advocate. In the course of that F.I.R., a grievance was made of that fact that respondent No. 1 had (before the withdrawal of power of attorney in his favour) demanded a sum of Rs. 1 lacs from respondent-Mustafa in order to be able to finish off a case of his, pending in the Court of Judicial Magistrate, 1st Class, Chandigarh. On getting an indicator of disinclination from respondent No. 3, respondent No. 1 held out a threat to him on 22.1.2000. A complaint, in the context, was lodged by respondent-Mustafa at the Police Post Central, Sector 17, Chandigarh on 22.1.2000. It was on account of the above report that respondent No. 1 was nourishing a grouse against Mustafa. The belaboring of respondent No. 3 by one of his associates was an outcome of that grievance.

4. The petitioners published the above facts in their newspaper issued dated 21.2.000. In the face thereof, respondent No. 1 addressed a letter (Annexure P9) to the Chief Editor of the Tribune, offering clarification of the facts indicated in the relevant newspaper reporting and also informing the addressee "to bring on record the correct facts as per the details given in the above matter." The Chief Editor did the needful by publishing Annexure P2, vide which the refutation of allegations by respondent No. 1 was published in newspaper.

5. However, respondent No. 1 proceeded to file a complaint (Annexure P3) against the petitioners and also respondents No. 2 and 3 for offences under Sections 427/500/501/502/506 of the Indian Penal Code.

6. On appraisal of the preliminary evidence, the learned Trial Magistrate ordered the summoning of the petitioners and the other accused to face the trial for an offence u/s 500 of the Indian Penal Code. It is the impugned order of summoning which impelled the petitioners to file the present petition to challenge the validity thereof.

7. I have heard Mr. R.K. Chhibbar, learned Senior Advocate for the petitioners and have perused the record. None turned up on behalf of the respondents to address arguments. It may be noticed, in the context, that in terms of order dated 14.12.2005 of Hon"ble S.K. Mittal, J. the Registry was directed to send an actual date notice to respondent No. 1 for 25.1.2006. That notice was duly served for 1.2.2006. However, none turned up on behalf of respondent No. 1. Even thereafter, this matter came to be adjourned, in the interest of justice, from time to time. However, none appeared on behalf of respondent No. 1 till the date the matter was taken up for arguments by this Court.

8. Typed copy of the relevant news item is available on the file as Annexure PI.

In order to be sure about the authenticity thereof, learned Counsel for the petitioners was requested to produce a copy of issue dated 21.2.2007 of the Tribune containing the relevant news item. The learned Counsel did so on that very day.

9. Learned Counsel for the petitioners argued that the essential allegations made by respondents No. 2 and 3 had been indicated in the relevant news item within inverted commas. Apart therefrom, the learned Counsel proceeded to argue, the news item under reference was published after the petitioners satisfied themselves about the facts alleged by respondents No. 2 and 3. In that context, it was pointed out that these very facts have been indicated by respondents No. 2 and 3 in the course of F.I.R. (Annexure P6) and a complaint made by Mustafa to Senior Superintendent of Police, Chandigarh (Annexure P7). It is these averments made in the course of the above two documents which had been quoted in the course of the impugned newspaper report. The argument proceeds to indicate that no liability for defamation can be fastened upon the petitioner as they had published the relevant news item on the basis of the facts averred in the course of Annexures P6 and P7.

10. I find force in the pleas raised on behalf of the petitioners.

11. The fourth estate, as the Press is appropriately described, has a religious and solemn duty to perform in a democracy. In fact, the functioning of democracy is inconceivable without an independent Press. Likewise, it is also the duty of the Press to highlight any act of high handedness on the part of any citizen, particularly a person holding an identifiable social status. Of course, the Press would be required to obtain a reasonable verification of the facts before publishing the same in the form of news item. At the same time, the Correspondent providing the news item or the Editor of the newspaper publishing it are not expected to hold a parallel investigation into the truthfulness or veracity of the facts in the context.

12. In the present case, the contents of Annexure P6 and P7 afforded enough material to the petitioners to feel reasonably satisfied about the facts averred in the course thereof. The petitioners, in spite thereof, acted wisely in quoting the allegations within inverted commas. Thus, the facts contained in the newspaper were attributed to Mustafa. When respondent No. 1 presented his own side of the story and required the petitioners to place the same on record, the petitioners readily did so and printed the clarification in the newspaper Annexure P2. It cannot, thus, be said that the petitioners had any cognizable, criminal and defamatory inclinations viz-a-viz respondent No. 1 or they had any other reasons to defame him in the eyes of the readers of the newspaper.

13. Apart therefrom, it may be noticed that it is only respondent No. 1 who appeared in the preliminary evidence and made a statement to the effect that he had been defamed in the eyes of general public and readers of the newspaper by the publication of the news item, Annexure P1. Respondent No. 1 did not

examine any witness to testify on oath that he (respondent No. 1) had been defamed thereby or that respondent No. 1 had been lowered in esteem on account of publication of the impugned newspaper report.

14. In this context, it would be pertinent to notice that it is only respondents No. 2 and 3 who filed written statement by way of an affidavit of the latter in this matter. Respondent No. 1 did not file a written statement in the present writ petition. In the absence of a counter, the inference is that the averments made in the petition are uncontroverted. Even at the cost of repetition, it may be indicated that the respondent No. 1 is himself a lawman, being a practising Advocate in the District Courts, Chandigarh.

15. The position that, thus, emerges from the above discussion is that the petitioners published the allegations made by respondent No. 3 in good faith and within inverted commas. They were fully justified in reporting the above allegations because those had already been made in the course of grievance indicated to the public servants. The bona fides of the petitioners are further evident from the fact that they, on being asked, readily published the clarification on facts offered by respondent No. 1. This Court is of the considered view that the impugned publication was not aimed at defaming him nor did it, in fact, defame him.

16. In the light of the foregoing discussion, it is evident that no offence u/s 500 of the Indian Penal Code was made out from complaint dated 21.2.2000, which (complaint) shall stand quashed. Resultant order dated 17.5.2000 (Annexure P5) shall also stand quashed.