
(2010) 03 P&H CK 0259
In the Punjab And Haryana At Chandigarh

Jagrup Singh Chahal and Hardeep Singh and Others	APPELLANT
Vs	
Raunaq Ram	RESPONDENT

Date of Decision : 04-03-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 194, 195, 201, 420

Citation : (2010) 03 P&H CK 0259

Hon'ble Judges : Sabina, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sabina, J.—Vide this order, the above-mentioned two Criminal Misc. petitions are being disposed of by a common order as they relate to the same complaint.

2. These petitions are filed u/s 482 of the Code of Criminal Procedure (‘Cr.P.C.’ for short) for quashing of the complaint filed by respondent against the petitioners under Sections 420, 467, 468, 471 and 120-B IPC (Annexure P1) and subsequent order dated 22.3.2005 (Annexure P5) passed by the Sub Divisional Judicial Magistrate Dhuri summoning the petitioner and further order dated 22.2.2006 (Annexure P6) passed by the Additional Sessions Judge (Adhoc) Fast Track Sangrur dismissing the revision petition filed by the petitioners.

3. Learned Counsel for the petitioners has submitted that the complaint in question qua V.K.Bansal has been quashed by this Court vide order dated 12.9.2006 passed in Criminal Misc. No. 21524-M of 2006 (V.K.Bansal vs. Raunaq Ram) (Annexure P9) . The said order has been upheld by the Apex Court vide order dated 24.4.2008. Learned Counsel has further submitted that since the case of the petitioners was on the similar footing, the complaint qua them was also liable to be quashed.

4. Respondent, on the other hand, has opposed the petition and has submitted

that the case of the petitioners was on different footing.

5. After hearing the learned Counsel for the parties, I am of the opinion that instant petition deserves to be allowed.

6. The order passed by this Court in Criminal Misc. No. 21524-M of 2006 dated 12.9.2006 reads as under:

The petitioner is seeking quashing of Criminal complaint (annexure P1) dated 27.8.2003, instituted by Raunaq Ram-respondent, under Sections 429, 467, 468, 471, 120-B, 194, 195 and 201 IPC. Order dated 22.3.2005 (Annexure P5), passed by Sub Divisional Judicial Magistrate, Dhuri while summoning the petitioner and others, under Sections 420, 467, 471 and 120-B IPC and order dated 22.2.2006 (Annexure P6) passed by Additional Sessions Judge (Ad hoc) Fast Track Court, Sangrur, while declining their revision against the order of summoning order, are also sought to be set aside.

7. In the complaint, it was alleged by Raunaq Ram present respondent, that he was Manager of District Wholesale Society Limited, Sangrur, Branch Bhawanigarh and was illegally suspended in the year 1969. Vide resolution dated 24.12.1992, the Managing Committee of the Society reinstated him and he reported for duty on 26.12.1992. However, with a view to helping accused No. 1 namely Hardeep Singh and to cause loss to the complainant, all the other accused connived together to cancel the resolution, vide which the complainant was reinstated. Accused No. 5 i.e. the present petitioner by illegally using his position, got registered a false FIR No. 67 dated 21.6.1993 through accused No. 4 namely, Jagdish Sahai. Another resolution was prepared through Jagdev Singh, Salesman upon which signatures of four members of the committee were forged. Photo copy of the same was sent to SSP and on its basis aforementioned FIR was registered. Further that additions were made in the old proceeding book on resolution dated 24.12.1992. It was also alleged that the present petitioner remained posted as Assistant Registrar Cooperative Societies at Sangrur and he connived with accused Hardeep Singh and Jagrup Singh in causing wrongful loss to the complainant.

8. After recording preliminary evidence, consisting of the statements of Prem Kumar CW-1, Satinder Singh CW2, complainant himself CW3, Nathu Lal CW4, Balwinder Singh CW5 and Gurdial Singh CW6, the Magistrate summoned the petitioner and four others for various offences. The said order was challenged by the petitioner and the other accused, who stood summoned. However, the revision was dismissed by Additional Sessions Judge (Ad hoc) Fast Track Court, Sangrur. Aggrieved by the same, the petitioner has filed the present petition, seeking quashing of the complaint and setting aside of the orders whereby he has been summoned and the revision filed against the order of summoning, has been dismissed.

9. The case of the petitioner is that the complainant filed a Civil Suit No. 186 of 23.5.1994, wherein he sought declaration to the effect that the orders dated

23.2.1993, passed by Deputy Registrar Cooperative Societies, Sangrur cancelling the resolution dated 24.12.1992 of the Society was illegal, null and void, unconstitutional, arbitrary, without jurisdiction and without authority. The orders passed by Joint Registrar on 4.5.1993, as well as the orders dated 4.1.1995 passed by Joint Secretary Cooperation, Punjab, Chandigarh were also sought to be declared similarly, illegal, void etc. In the said suit were framed, amongst the following issues:

a. Whether Hardeep Singh was unlawfully appointed as Manager of the Sangrur District Whole "Sale Supply and Marketing Society Ltd. Sangrur on the basis of the false certificates? If so its effect? OPP.

b. Whether the plaintiff has reinstated and appointed as Manager by the Sangrur District Wholesale Cooperative Supply and Marketing Society Ltd. Sangrur on 24.12.1992 and he joined his duty on 26.12.1992, if so, its effect? OPP.

e. Whether the resolution dated 24.12.1992 is forged and fabricated document, if so, its effect? OPD.

10. The above suit filed by the present respondent-complainant was dismissed with costs. The trial Court held that the plaintiff was never reinstated as Manager and the accused, namely, Hardeep Singh was working as Manager of the Society, since the date of his appointment i.e. 9.12.1992. The resolution dated 24.12.1992 was held to be false and fabricated, vide which the plaintiff was reinstated. Against the said judgment and decree, an appeal was filed by the complainant, which was dismissed by Additional District Judge, Sangrur on 26.10.2002. Complainant did not leave the matter thereafter and filed an appeal (RSA No. 5331 of 2003) in this Court, which was also dismissed on 14.12.2003. The concluding portion of the said judgment is reproduced here below:

After hearing the appellant in person at length and perusing the record, in my opinion, the present appeal is liable to be dismissed. Both the Courts below on the basis of evidence led by the parties had found that the orders passed by the departmental authorities were legal and valid and the plaintiff was not entitled to the declaration and injunction sought for. It was found that defendant No. 4 had passed a valid resolution on 24.12.1992 and as such the various orders passed by the Deputy Registrar, Punjab were legal and valid and no fault could be found with the same. These findings of the Courts below are based on evidence led by the parties and do not call for any interference by this Court in the present Regular Second Appeal. This is especially so when no question much less a substantial question of law arises for determination in this appeal. Hence, the present appeal is dismissed.

11. On the basis of the aforementioned facts, the petitioner prayed that the present complaint deserves to be quashed and the summoning order and the order in revision be set aside, as the subject matter has since been decided by the Court of competent jurisdiction against the complainant. In reply, the complainant has taken the stand that the findings of the judgments in the civil

suit and appeal have no bearing on the present complaint.

12. The main grouse of the complainant is regarding wrong setting aside of the resolution, vide which he was reinstated in service. He further claims that the said resolution, reinstating him in service was wrongly set aside by the present petitioner in connivance with Hardeep Singh. To my mind, there is no material available on the file to come to such a conclusion. A perusal of the statements of the five witnesses examined by the complainant in support of his case during recording of the preliminary evidence, shows that no one made any such allegation against the present petitioner. Similarly, the allegations levelled by the complainant by way of the present complaint, have already been tried by the civil Court. The suit filed by the complaint has been dismissed and the findings arrived at in the same have been upheld by this Court, while dismissing RSA No. 5331 of 2003, filed by the complainant. Accordingly, it is held that the present completion is nothing, but an abuse of the process of the Court. The same ought not to be proceeded further against the present petitioner.

13. Resultantly, the present petition is accepted and the complaint dated 27.8.2003 (Annexure P1) is hereby quashed qua V.K. Bansal present petitioner. Order dated 22.3.2005 (Annexure P5) passed by Sub Divisional Judicial Magistrate, Dhuri summoning the petitioner and order dated 22.2.2006 (Annexure P6) passed by Additional Sessions Judge (Ad hoc) Fast Track Court, Sangrur are set aside."

14. In the present case, the main grievance of the respondent was that resolution dated 24.12.1992 was a forged and a fabricated document and all the accused in connivance with each other had prepared the same. However, in civil proceedings the resolution dated 24.12.1992 was upheld upto this Court. Hence, there is no force in the submission made by the respondent that the case of the petitioners was on different footing. Rather the case of the petitioners is similar to that of petitioner-V.K. Bansal.

15. Accordingly, these petitions are allowed. Complaint dated 27.8.2003 (Annexure P1) and impugned orders dated 22.3.2005 (Annexure P5) and dated 22.2.2006 (Annexure P6) are quashed.