

(2008) 01 P&H CK 0007

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-34238 of 2008 (O and M)

K.C. Narwal, SDO (Operation) U.H.B.V.N.

APPELLANT

Vs

Jagdish Chander, Proprietor, Friends Poultry Farms

RESPONDENT

Date of Decision : 20-01-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 500, 506

Citation : (2008) 27 CriminalCC 886

Hon'ble Judges : Mohinder Pal, J

Bench : Single Bench

Advocate : Sumnender Badhran, for the Appellant;

Final Decision : Dismissed

Judgement

Mohinder Pal, J.—The petitioner, who, at the relevant time, was posted as Sub Divisional Officer (Operation), Uttar Harayana Bijli Vitran

Limited (for short "U.H.B.V.N.L."), Barwala, Tehsil and District Panchkula, was summoned to face trial under Sections 500 and 506 of the Indian

Penal Code by the trial Magistrate in the complaint case filed by the respondent. His revision petition against the order of the trial Magistrate has

been dismissed by the lower appellate Court. Hence this revision petition.

2. The allegations against the petitioner are that on 24.10.2003, while he was posted as Sub Divisional Officer (Operation)9, U.H.B.V.N.L.,

Barwala, Tehsil and District Panchkula, demanded Rs. 10,000/- from the respondent, who is proprietor of M/s. Friends Poultry Farm, Village and

Post Office Barwala and is consumer of high power electricity supply for replacing and installing the electricity pole which had broken. The

complainant did not oblige the petitioner. Thereafter, the petitioner along with Junior Engineer Tara Chand, concocted false imputations of theft of

electricity by the complainant and disconnected his electricity supply by misusing the official powers. The complainant brought the matter to the notice of the higher authorities, upon which the Executive Engineer of U.H.B.V.N.L. came to the spot on 12.11.2003 for inspection/inquiry along with the accused. The complainant narrated the entire incident to the Executive Engineer. The petitioner-accused then defamed the complainant in the presence of his staff by using filthy language and gave him pushes. The petitioner also threatened to kill the complainant-respondent.

3. Learned counsel for the petitioner has contended that the petitioner is a public servant and could not have been summoned to face trial without

sanction of the competent authority. The petitioner was acting in discharge of his official duties in detecting the theft of electricity. In support of his

contention, he relied upon the authority reported as Sri Baliram Singh Vs State of Bihar & Anr., 1990 C L J 719, wherein the Superintending

Engineering in the State Electricity Board had been summoned to face trial u/s 500 of the Indian Penal Code, the Patna High Court quashed the

summoning order by holding that sanction for prosecution was necessary. The complainant in that case was Secretary of the Workers Union of

Electric Supply Department and was waiting for the petitioner near the Control Room after working hours to talk to him (petitioner) with regard to

pending demands. As per allegations in the complaint, the petitioner abused the complainant and threatened him with dire consequences. However,

the fact of the instant case are quite distinct from Sri Baliram Singh's case (supra). In that case, the petitioner had gone to inspect the Hathidah

Electrical Sub Station as per the instructions of the General Manager-cum-Chief Engineer, Central Bihar Area Electricity Board and during the

course of such visit, the alleged occurrence took place. From the complaint itself in that case it was clear that the occurrence had taken place near

the Control Room. In these circumstances, it was observed that it was very difficult to hold that the alleged act was done not in the capacity of

public servant but in capacity of private individual. In the instant case, the matter was inquired into by the Executive engineer on the complaint of

the complainant-respondent and it was found during inquiry that the petitioner had misbehaved and tried to manhandle the complainant. The act of

defaming by abusing and trying to manhandle a person cannot, by any stretch of reasoning, be said to be falling within the ambit of discharge of

official duties.

4. Consequently, I do not find any merit in this revision petition, which is hereby dismissed.