
Before Mahesh Grover, J.

KULDIP BABBAR,—Petitioner

versus

STATE (CHANDIGARH ADMINISTRATION),—Respondent

CRIMINAL MISC. NO. 73562/M OF 2006

22nd January, 2007

Code of Criminal Procedure, 1973—S.482—Petitioner acquitted in case under section 406/498-A IPC by giving benefit of doubt to him in absence of testimony of complainant—Allegations of registration of false case against petitioner—Trial Court taking cognizance of complaint filed by petitioner—Complaint withdrawn for lack of sanction under section 197 Cr. P.C.—No case made out for prosecution of officers of State—Abuse of process of law—Proceedings a result of frivolous and vexatious litigation—Petition dismissed with costs of Rs. 20,000.

Held, that the petitioner by way of this petition has clearly tried to abuse the process of law. Once the Magistrate was seized of a complaint, the petitioner had the option of prosecuting the same and taking it to its logical end. The same was however, not done for the reasons best known to the petitioner. That apart, his only grievance appears to be a false prosecution which is, according to him, borne out from the acquittal awarded to him. A perusal of the judgment shows that the petitioner was acquitted by giving the benefit of doubt to him in the absence of the testimony of the complainant therein. The trial in a criminal case rests on various factors and every acquittal need not mean to be indicative of a malicious prosecution. There is nothing on record which would *prima facie* suggest that the petitioner had been subjected to any malicious prosecution.

(Para 5)

Further held, that in any eventuality having recourse to proceedings under section 482 of the Code of Criminal Procedure for launching prosecution against officials involved in lodging the FIR resulting in an unsuccessful prosecution is not the remedy.

(Para 6)

Raj Kaushik, Advocate for the petitioner.

JUDGEMENT

MAHESH GROVER, J. (Oral)

(1) This is a petition filed under Section 482 of the Code of Criminal Procedure wherein the following prayers have been made :

1. Issuing appropriate directions to the State (Chandigarh Administration) to consider and dispose of in a time bound manner, by passing a speaking order, the petition/application, dated 16th February, 2005 made to His Excellency The Governor of Punjab and the Administrator, Chandigarh for granting permission to the petitioner under Section 197 Cr.P.C. to prosecute the officers viz., D.S.P. Arjan Singh Jaggi, Inspector/SHO Mastan Singh, S.I. Sarwan Singh, L./S.I. Geeta Sharma and L./S.I. Kulvir Kaur of the Chandigarh Police, for their acts of commission and omission committed during the registration, Investigation and trial of case/FIR No. 36, dated 23rd April, 1998, Police Station, Sector 19, Chandigarh under Sections 406/498-A IPC disposed of by the Hon'ble Trial Court on 8th December, 2004 ;
2. issuing suitable directions to the Respondent (State i.e., Chandigarh Administration) to register the First Information Report under section 34, 109, 114, 116, 118, 119, 166, 167, 120-B, 182, 193, 196, 201, 211, 218, 323, 327, 347, 355, 384, 385, 387, 389, 406, 420, 424, 452, 465, 467, 468, 469, 471, 474, 494, 500, 506 of I.P.C., against 33 accused as mentioned in paras No. 60 to 92 of Annexure P-7 to this application ;
3. to issue suitable directions for investigation into the circumstances leading to the framing of the petitioner in a false case/FIR by the Chandigarh Administration (Respondent), by Central Bureau of Investigation or any other independent agency except Chandigarh Police.

(2) Concededly, the petitioner has already filed a **complaint** under the provisions of Section 190 of the Code of Criminal **Proce**cedure and cognizance thereof had been taken by the court of competent

jurisdiction. Along with the complaint the petitioner also moved an application under Section 156(3) of the Code of Criminal Procedure for registration of a case against the police officials and the respondents in the complaint. The said application was dismissed and against the said order dated 11th October, 2005 the petitioner went up in revision with a prayer for setting aside the said order. The revision petition was also dismissed on 27th May, 2006. The petitioner thereafter moved an application to withdraw the complaint which was allowed on 19th August, 2006. The only reason for withdrawal of the aforesaid complaint was that sanction under Section 197 of the Code of Criminal Procedure had not been accorded for prosecuting the persons mentioned in the complaint.

(3) The only grievance of the petitioner in the complaint was for prosecuting 33 persons named therein, who, according to the petitioner, were instrumental in getting an FIR No. 36, dated 23rd April, 1999 under the provisions of Section 406/498-A IPC lodged against him, which resulted in a trial in which he was subsequently acquitted. It is necessary to state here that the petitioner was acquitted primarily for want of evidence as the complainant Reena Babbar who was his wife failed to testify before the Court.

(4) According to the petitioner, all the 33 persons named therein were instrumental in getting a false case foisted upon him and hence they committed an offence under Section 34, 109, 114, 116, 118, 119, 166, 167, 120-B, 182, 193, 196, 201, 211, 218, 323, 327, 347, 355, 384, 385, 387, 389, 406, 420, 424, 452, 465, 467, 468, 469, 471, 474, 494, 500, 506 of I.P.C. It is also pertinent to note here that the petitioner had made a prayer that the said matter pertaining to these persons be entrusted to the Central Bureau of Investigation for investigation.

(5) The petitioner by way of this petition has clearly tried to abuse the process of law. Once the Magistrate was seized of a complaint, the petitioner had the option of prosecuting the same and taking it to its logical end. The same was, however, not done for the reasons best known to the petitioner. That apart, his only grievance appears to be a false prosecution which is, according to him, is borne out from the acquittal awarded to him. A perusal of the judgment shows that the petitioner was acquitted by giving the benefit of doubt to him in the absence of the testimony of the complainant therein. The trial in a criminal case rests on various factors and every acquittal need not mean to be indicative of a malicious prosecution. There is ~~nothing~~ on record which would *prima facie* suggest that the petitioner ~~had~~ been subjected to any malicious prosecution.

(6) In any eventuality having recourse to proceedings under Section 482 of the Code of Criminal Procedure for launching prosecution against officials involved in lodging the FIR resulting in an unsuccessful prosecution is not the remedy.

(7) The other prayer for issuance of directions to the other functionaries of State to grant sanction for prosecuting the officers named in the representation to them, cannot be granted as *prima facie* this court is of the opinion that no such case for their prosecution has been made out for the reasons aforesaid.

(8) The present proceedings are clearly an abuse of the process of law and a result of frivolous and vexatious litigation. The petition is accordingly dismissed with costs of Rs. 50,000.

(9) At this stage learned counsel for the petitioner prayed earnestly for a lenient view. In view of this, the petition is dismissed with a costs of Rs. 20,000.

R.N.R.

*Before Vijender Jain, C.J., P. Sathasivam, Rajive Bhalla,
Surya Kant & Mahesh Grover, JJ.*

KULWINDER SINGH AND OTHERS,—Petitioners

versus

STATE OF PUNJAB AND ANOTHER,—Respondents

Criminal Misc. No. 33016/M of 2007

8th August, 2007

*Code of Criminal Procedure, 1973—Ss. 320 and 482—
Constitution of India, 1950—Arts. 226 and 227—Parties after arriving
at a compromise and settling all their disputes seeking quashing of
FIR—Non-compoundable offence—S.320 provides a table of offences
punishable which may be compounded and no offence shall be
compounded except as provided by this section—Whether High Court
has power under section 482 to quash criminal proceedings or allow
compounding of offences notwithstanding the bar under Section 320—
Held, yes —Power of High Court under Section 482—Exercise of—To
prevent abuse of process of any Court or to secure the ends of justice—
No hard and fast category to prescribe—No embargo can whittle down
power of High Court under Section 482 Cr.P.C. and such power could
not be restricted to matrimonial cases only.*