

14.03.2022

ORDER ON SUMMONING

Present : Ld. Counsel Sh. Dhruv Gupta for complainant.

Ld. counsel for complainant submits that the testimony of the complainant CW1 recorded u/s 200 CrPC as well as the statement of the witnesses being CW2, CW3 and CW4, who be treated as enquiry witnesses in terms of section 202 CrPC, is sufficient to issue process against the accused persons. The Ld. Counsel for the complainant submits that in terms of material on record, in the nature of statements of the witnesses, the complaint, the documents, there is more than sufficient material to summons the accused persons and as such it is prayed that the accused persons be summoned.

Ld. Counsel for the complainant relies upon the judgment passed by Hon'ble Supreme Court of India in the case of Abhijit Pawar Vs. Hemant Madhukar Nimbalkar and Ors., 2017 (3) SCC 528 and submits that in terms of law laid down in the aforesaid judgment, the compliance of the provisions of Section 202 CrPC is over and that therefore, the mandatory enquiry u/s 202 CrPC stands complied with.

I have perused the complaint, the documents appended therewith, the statement of the witnesses recorded before this court.

The main complianant has stated on oath and provided detailed facts of the defematory interview given by accused No. 1 and 2 which was broadcasted in "KARNAL BREAKING NEWS" on 10.06.21. Both accused persons have made categorical allegations inter alia stated that the complainant has approached public officials and purchased them and for this purpose she entered into a conspiracy, the accused persons have also made allegations to the extent that the

complainant has a questionable character and alledgedly, she is in an illicit relationship with one Gurmeet Ram Rahim. The criminal complaint alongwith statement on oath of CW1 clearly bring about the allegations tantamounting to prima facie case of criminal case. I have also perused the compact disk, which has been played in the court and heard the defematory allegations. The documents placed on record also complied with the requirements of section 65B of the Indian Evidence Act placed on record in support of the compact discs and the transcriptions of the interviews.

The complainant has also adduced the testimonies of CW2, CW3 and CW4 who have clearly stated that they watched and heard the interview which is also available on You Tube and upon that, in their estimation the character and reputation of the complainant was lowered. The said witnesses have also exhibited the interview as seen by them and available on court record.

In case titled as Sushil Ansal Vs. State of Delhi, Criminal Revision Petition No. 224/2008, Hon'ble High Court of Delhi has observed that at the time of summoning the accused persons, detailed reasons for summoning the accused persons are not required. In case of a complaint u/s 200 CrPC, a Magistrate can take cognizance of offence made out and then has to examine the complainant and his witnesses, if any, to ascertain whether a prima facie case is made out against the accused to issue process so that the issue of the process is prevented on a complaint which is either false or vexatious or intended only to harass. Such examination is provided in order to find out whether there is or not sufficient grounds for proceeding. The words "sufficient ground" used u/s 203 CrPC have to be constructed to mean the satisfaction that the prima facie case is made out against the accused and not sufficient ground for purpose of conviction.

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In the estimation of this court, therefore, a prima case u/s 500 IPC is made out against the accused persons and they are liable to be summoned by issuing a process u/s 204 CrPC.

Let accused namely accused No. 1 Vishwas Gupta and accused No. 2 Mahendra Pal Gupta be summoned for offence punishable u/s 500 IPC only after filing of PF for NDOH. Complainant is directed to take steps for the same.

In terms of the law laid down in judgment of Abhijit Pawar Vs. Hemant Madhukar Nimbalkar and Ors. (supra), the enquiry u/s 202 CrPC is already complete as the statement on oath of CW2, CW3 and CW4 is taken as enquiry u/s 202 CrPC conducted by this court and the same complements the statement on oath given by the complainant u/s 200 CrPC.

Put up on 12.07.2022.

(Vivek Beniwal)
MM-07 (NW)/RC/Delhi
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