

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-13624 of 2015

Date of Decision: August 17, 2015

Udaiveer and others

...Petitioners

VERSUS

Jabbar

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vivek Goel, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of complaint No.316 dated 31.10.2012 titled as 'Jabbar vs. Udaiveer and others', summoning order dated 05.12.2013 passed by learned JMJC, Palwal and judgment dated 04.02.2015 passed by learned Addl. Sessions Judge, Palwal, whereby the revision petition filed by the petitioners was dismissed.

The brief facts of the case are that on 11.05.2012, petitioners No.1 to 3 were assaulted by respondent Jabbar and others. Petitioners No.1 to 3 received number of injuries and in this regard FIR No.99 dated 12.05.2012 under Sections 323, 324, 307 IPC etc. was registered at Police Station Chandhat, District Palwal, at the instance of petitioner No.2-Ravinder against respondent Jabbar and others. The present complainant-respondent Jabbar as a counter

blast of FIR and in order to create defence, filed the complaint against the petitioners after about five months of the alleged occurrence. It is also the case of the petitioners that respondent did not disclose about the FIR in the complaint and concealed material facts. The petitioners have been summoned by learned JMIC, Palwal vide order dated 05.12.2013. A revision was filed against the above-said order, which was dismissed by learned Addl. Sessions Judge, Palwal vide judgment dated 04.02.2015.

I have heard learned counsel for the petitioners and have gone through the record.

From the record, I find that it is admitted by learned counsel for the petitioners at the time of arguments that occurrence as stated by complainant Jabbar in the present case is of different time and is not relating to the same time regarding which the FIR has been got registered against the present complainant. So, in no way, the present complaint can be held as cross case. Rather, there are two different occurrences. In the present case, learned JMIC, Palwal has summoned the accused to face trial under Sections 323, 324, 452, 427, 506, 148 and 149 IPC. The complainant examined Dr.Sudeep Saini, MO, Civil Hospital, Palwal as CW-4 in preliminary evidence, who has proved copy of MLR of injured Dilshad Ex.CW4/A, copy of MLR of injured Jabbar Ex.CW/4B and copy of MLR of Munni Ex.CW4/C. The complainant himself appeared as CW-3 and examined CW-1 Dilshad and CW-2 Munni. Therefore, the complainant in preliminary evidence has produced oral as well as

medical evidence by examining the doctor and other injured.

At the time of summoning, the Court is to see whether there is sufficient ground to proceed against the accused on the basis of averments in the complaint as well as preliminary evidence. The revision filed by the present petitioners has been dismissed by learned Addl. Sessions Judge, Palwal, which means that summoning order has been upheld. Nothing has been shown as to how the summoning order passed by learned JMFC, Palwal as well as judgment passed by learned Addl. Sessions Judge, Palwal, are illegal. Nothing has been shown as to how the filing of the present complaint against the petitioners amounts to misuse/abuse of process of law. The delay in filing the complaint is to be explained by the complainant side during the evidence and it is for the trial Court to see whether delay has been sufficiently explained or what is the effect of the delay. The delay of five months in filing the complaint, itself is no ground to quash the complaint. The other argument of learned counsel for the petitioners that earlier a police enquiry was made and the version of the complainant was found false, is also no ground to quash the complaint.

The Court has already taken the cognizance on the basis of the preliminary evidence and from the record, I find that the present complaint cannot be held as abuse/misuse of process of law.

Therefore, finding no merit in the present petition, the same is dismissed.

August 17, 2015

Vgulati

**(INDERJIT SINGH)
JUDGE**