

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.**

**CRM-M No.16827 of 2015.**

**Date of Decision: July 09, 2015.**

Mohinder and others

....Petitioners.

**VERSUS**

State of Haryana and another

....Respondents.

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**CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.**

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**Present:** Mr. Vishal Garg Narwana, Advocate for the petitioners.

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**SNEH PRASHAR, J.**

A petition under Section 482 of the Code of Criminal Procedure (in short, "Cr.P.C.") was filed by the petitioners for quashing of order dated 24.09.2014 passed by learned Chief Judicial Magistrate, Mewat, vide which the petitioners were charge sheeted for the offence under Sections 148, 149, 323, 325 and 506 of the Indian Penal Code (in short, "I.P.C.") as well as order dated 07.02.2015 passed by learned Additional Sessions Judge, Mewat whereby the revision petition filed by the petitioners against order dated 24.09.2014 was dismissed.

An First Information Report No.404 dated 11.12.2010 under Sections 147, 149, 323 and 506 I.P.C. was registered against the petitioners on a complaint lodged by Smt. Asmina wife of Jafrudeen (respondent No.2). According to the petitioners, the said First Information Report was a counter blast to the First Information Report No.401 dated 09.12.2010

registered against respondent No.2 and her relatives on the statement of Mohinder (petitioner No.1). After inquiry into the allegations contained in First Information Report No.404 dated 11.12.2010, the police filed a cancellation report. It was specifically mentioned in the said report that the injuries were caused to Smt. Asmina (respondent No.2) and others by the petitioners in their self defence. Respondent No.2 then filed a protest petition. The preliminary evidence adduced by her led to summoning of the petitioners. After recording her pre-charge evidence, learned Chief Judicial Magistrate passed an order dated 24.09.2014 for serving a charge sheet to the petitioners for commission of offence under Sections 148, 323 and 506 read with Section 149 I.P.C.

The petitioners filed a revision petition against the order dated 24.09.2014 which was dismissed by learned Additional Sessions Judge, Mewat, vide order dated 07.02.2015.

By way of the instant petition, the order dated 24.09.2014 passed by learned Chief Judicial Magistrate as well as the order dated 07.02.2015 passed by learned Additional Sessions Judge, Mewat have been challenged.

Heard the submissions made by Mr. Vishal Garg Narwana learned counsel representing the petitioners.

Learned counsel for the petitioners submitted that the evidence led by Smt. Asmina (respondent No.2) was insufficient and incompetent for serving a charge sheet to the petitioners. The protest petition was nothing but a counter blast to the criminal case registered against respondent No.2

and her relatives. They were the aggressors and it is possible that they had suffered some injuries at the hands of the petitioners while acting in their self defence. It was in First Information Report No.401 dated 09.12.2010 registered against respondent No.2 and her relatives that the prosecution was required to explain the injuries suffered by respondent No.2 etc. The separate trial being conducted on the version of respondent No.2 was only abuse of process of law. Learned counsel also added that Section 325 I.P.C. was not made out as the injuries suffered by respondent No.2 were simple in nature.

Admittedly, it is a case of cross version. While on the complaint lodged by Mohinder (petitioner No.1), First Information Report No.401 dated 09.12.2010 was registered, it was on the version of Asmina (respondent No.2) that First Information Report No.404 dated 11.12.2010 was registered. There was a dispute between the parties with regard to a plot. On both sides number of persons were involved. During the occurrence that took place on 09.12.2010 not only the petitioners but also respondent No.2 and her companions suffered injuries. Yet after investigation the police filed a cancellation report in First Information Report No.404.

In any case, the petitioners were summoned by the Magistrate on the basis of the preliminary evidence led by respondent No.2 Asmina. After their appearance and recording the evidence on charge consisting of as many as eight witnesses, learned Chief Judicial Magistrate passed the order dated 24.09.2014 finding sufficient material available on the file for

serving a charge sheet to the petitioners. Trial in both the cases is in progress and it will be a fact to be considered while deciding the cases on merits that which of the party was the aggressor.

Learned counsel for the petitioners failed to demonstrate any error committed by learned trial Court by misappreciating or misreading the evidence led by respondent No.2. It has been mentioned by the petitioners themselves in Para No.6 of the petition that Asmina (respondent No.2) and one Bhim Singh had suffered injuries. The statement of injured corroborated by medical evidence in the shape of statement of doctor etc. is prima facie sufficient material for the court to serve a charge sheet on the accused. Perusal of the order dated 24.09.2014 passed by learned Chief Judicial Magistrate and order dated 07.02.2015 passed by learned Additional Sessions Judge shows that no argument was raised before them that charge under Section 325 I.P.C. was not made out because none of the injured had suffered grievous injuries. Anyhow, the case is yet to be decided on merit and the petitioners are still at liberty to raise the said objection at the time of decision of the complaint on merits. When trial in both the cases i.e. cross cases is nearing conclusion there is no ground to outrightly quash one of them.

Finding no adversity or perversity for intervention in the impugned orders the instant petition being devoid of merits is dismissed.

**(SNEH PRASHAR)**  
**JUDGE**

**July 09, 2015**  
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