

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No. 22299 of 2010(O&M)
Date of decision : 08.09.2015**

Parminder Kaur & Ors.

..... Petitioners

versus

State of Punjab & Anr.

... Respondents

with

Crl. Misc. No. 33735 of 2014

Gurvinder Singh @ Billa & Ors.

..... Petitioners

versus

State of Punjab & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment?
Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

**Argued by: Mr. L.S. Sidhu, Advocate for the
petitioners in Crl. Misc. No.22299 of 2014.**

**Ms. G.K. Mann, Advocate for the
petitioners in Crl. Misc. No. 33735 of 2014.**

Mr. Deep Singh, AAG Punjab.

**Mr. H.S. Bath, Advocate
for the complainant.**

ANITA CHAUDHRY, J.

The petitioners are facing prosecution in FIR No. 75 dated 12.07.2009, registered under Sections 148, 149, 323, 365, 380 and 506 IPC at Police Station Valtoha, District Tarn Taran.

The FIR was registered against the petitioners at the

instance of respondent No.2 on the allegations that on 02.07.2009 they came to the house of complainant and gave him a beating and kidnapped him in a car. They also took Rs. 5000/- and took his motor cycle. The complainant was left near Gurdwara Baba Saheed, Amritsar after extending threats.

Parminder Kaur is wife of complainant Sukhdev Singh, Raghubir Singh is father-in-law, while Saminder Singh @ Sonu, Gurvinder Singh @ Billa and Ravinder Singh @ Jajj are his brothers-in-law and Gurcharan Singh is father-in-law of Saminder Singh @ Sonu.

The marriage of Parminder and Sukhdev took place in the year 1999 and they have two children. The couple was having strained relations.

The petitioners are seeking quashing of the FIR on the ground that this FIR was a counter-blast to FIR No. 196 dated 11.09.2009 lodged by petitioner, Parminder Kaur under Sections 406 and 498-A IPC, registered at Police Station B Division, Amritsar against her husband Sukhdev Singh and members of in-laws family namely Gurdev Singh, Ajit Kaur, Hardev Singh and Hira Singh and that initially in this case cancellation report was submitted as the case was found false, but due to influence of the respondent, the police filed the challan and the prosecution was bad in view of law laid down in **State of Haryana and others Vs. Ch. Bhajan Lal and others, AIR 1992 SC 604**. It was also averred that petitioner Gurcharan Singh was bed-ridden.

In the reply filed on behalf of the State, it was pleaded

that initially SP(Hq.) Batala found the case false, but SSP Tarn Taran himself conducted an enquiry into the matter and found that the occurrence had taken place and the final report was submitted against the petitioners. It was averred that since the petitioners had taken the law into their hands, they are rightly being prosecuted.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

There are two different enquiry reports in the matter viz., one dated 30.07.2009 conducted by SP(Hq.) Batala who found the case to be false and another dated 14.11.2009 submitted by Senior Superintendent of Police, Tarn Taran who recommended filing of challan against the petitioners. Both the parties are relying on the report favourable to them. The genuineness or otherwise of the reports is not to be ascertained here. It becomes evident that some occurrence had taken place on 02.07.2009 and the same was within the knowledge of police of Tarn Taran and Amritsar. No action was taken on the pretext that the matter could be patched. A perusal of FIR No. 196 dated 11.09.2009 lodged by Parminder Kaur, it is evident that therein also there is a reference to the altercation of 02.07.2009 and it was mentioned that Sukhdev Singh was lying in the hospital with bandages. Learned counsel for the complainant had placed copy of MLR of complainant Sukhdev Singh dated 03.07.2009 showing injuries on his person. The injured was shown to have been brought by MHC Hira Singh in the morning at 8:15 a.m. on

03.07.2009 though police docket was prepared on 02.07.2009. It is a matter of trial and it is for the trial Court to see if there is any truth in the FIR. Only because an FIR was registered by petitioner Parminder Kaur a day before the present FIR, the subsequent FIR cannot be quashed. There are questions of facts and are subject matter of evidence that would come on record. No finding can be recorded at this stage. The case in hand does not fall within the parameters laid down by Bhajan Lal's case (supra). There are specific allegations against the petitioners. The powers under Section 482 Cr.P.C. have to be exercised sparingly and with circumspection, that too in rarest of rare cases, which does not exist in the present case.

No ground for quashing is made out. Dismissed. However, whatever has been said hereinabove is without prejudice to the case on merit. The petitioners will be at liberty to raise all the pleas before the appropriate forum and at the appropriate stage.

September 08, 2015
Jiten

(ANITA CHAUDHRY)
JUDGE