

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No. M-1922 of 2015

Date of decision: 12.02.2015

Gurpal Singh and another

.....Petitioners

versus

Sarabjit Singh

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr. A.K.Walia, Advocate for the petitioners

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing the order dated 7.10.2014 (Annexure P10), passed by the learned Additional Sessions Judge, Patiala as well as order dated 16.9.2013 (Annexure P8), passed by the learned Judicial Magistrate 1st Class, Patiala, whereby summoning of the accused respondent-accused has been refused.

Learned counsel for the petitioners has contended that the petitioners had filed a complaint against Sarabjit Singh, posted as SHO at Police Station Civil Lines, Patiala under Sections 395, 447, 109, 427, 148, 149, 120-B IPC. It is stated that the complainants have a dispute regarding shop with one Parkash Chand. The SHO was helping him. Regarding SHO, it is stated that on 6.10.2009 at about 6/7 P.M., Parkash Chand and other co-accused along with 30-

35 persons came in tractor trolley and car and forcibly entered in the shop of the complainant and started throwing out the stocks from the shops. When the complainant tried to stop them, they gave beatings to him. It was stated that SHO Sarabjit Singh was willfully abetting the offence under Sections 395, 447, 427, 148, 149 IPC after hatching a criminal conspiracy with said Parkash Chand etc. It is stated that when the matter was reported to the SHO, he registered case under Sections 380, 427 IPC, though the case of dacoity and looting was also made out. Further allegations against the SHO are that on 12.11.2009, he submitted a representation to the senior officers, in which SSP submitted an affidavit that SHO should be included in the FIR No.186. The said affidavit was filed before the High Court.

I have heard learned counsel for the petitioners and have also carefully gone through the file.

The statement of the complainant recorded before the trial Court as PW1 shows that the allegations against the respondent are that he did not properly record the FIR. Regarding the first incident, there are no allegations in the complaint as to how the SHO accused abetted the commission of crime by Parkash Chand etc. It is stated regarding the second incident that SHO was present when the occurrence took place and he did not take any action. It is stated that some photographs were also taken and the news item also appeared in the newspaper. Though the news item was produced before the trial Court but said photographs were not produced before the trial Court. Therefore, same cannot be taken into consideration

at this stage. The mere presence does not amount to abetment. The matter has already been examined in revision before the learned Additional Sessions Judge, Patiala.

I am of the view that FIR against the main accused Parkash Chand etc. has already been registered. The grouse of the petitioners/complainants is that the sections alleged by them have not been incorporated in the FIR. The possibility of SHO being present after the crime at the spot is there. There is nothing on file to show as to what kind of abetment was done by the SHO. If the SHO has failed to prevent commission of crime then for his prosecution the sanction is also required under Section 197 Cr.P.C. which is not there. In any case, the petitioners have failed to prove on record that the SHO has abetted the commission of crime or that he was in conspiracy with Parkash Chand accused etc.

It being so, no fault can be found with the judgment passed by the learned Judicial Magistrate 1st Class, Patiala dated 16.9.2013 (Annexure P8) and order dated 7.10.2014 (Annexure P10), passed by the learned Additional Sessions Judge, Patiala.

The petition is accordingly dismissed.

12.02.2015
gk

(Kuldip Singh)
Judge