

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-23533 of 2013 (O&M)
Date of Decision: September 17, 2015

Baldev Singh and others

...Petitioners

VERSUS

Gram Panchayat

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Munish Gupta, Advocate
for the petitioner.

Mr.G.S.Punia, Senior Advocate with
Ms.Harveen Kaur, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioners Baldev Singh and others have filed this petition against respondent Gram Panchayat under Section 482 Cr.P.C. for quashing of complaint No.89 dated 14.06.2010, summoning order dated 09.12.2010 passed by learned Judicial Magistrate Ist Class, Amloh and order dated 25.01.2013 passed by learned Addl. Sessions Judge, Fatehgarh Sahib and all the subsequent proceedings arising therefrom.

The brief facts of the case are that Gram Panchayat through its Sarpanch Gurdeep Singh filed a complaint against Baldev Singh, Swaran Singh, Balwant Singh, Rachhpal Kaur, Amarjit Kaur, Mandeep Singh, Maninder Singh, Armik Singh, Surjit Singh, Daljit

Kaur, Paramjit Kaur and Surinder Kaur under Sections 353, 186, 323, 504, 506, 427, 148 and 149 IPC, alleging that on 05.06.2009, the complainant was making the passage which leads from village to Shamshan Ghat comprised in khasra No.25 measuring 43 kanal 18 marla and for the construction of said passage, the work was in progress in the supervision of Karnail Singh, Gram Sewak and Secretary Gobinder Singh and both the above-said persons were doing there public duty. The accused persons made criminal assault and used criminal force upon the Nigran Officer, Secretary of Gram Panchayat and Gurdeep Singh, Sarpanch of the village. The accused persons obstructed the complainant and above said employees from discharging their public duties and also obstruct the Gram Panchayat from making the development work in the village because the accused persons wanted to encroach upon the public street. It is further the case of the complainant that accused No.1 is working as driver in Income Tax Department and is having influence over the local police and other officials of the Government. The above said incident took place on the instigation of criminal conspiracy of accused No.1 and he threatened the complainant, Karnail Singh and Gobinder Singh to kill them and used filthy language against the said persons.

On the basis of the preliminary evidence, learned trial Court summoned the accused under Sections 353, 504, 506, 427, 148 and 149 IPC.

Notice of motion was issued and learned counsel for respondent appeared and contested the petition.

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

As per the complainant, the occurrence took place on 05.06.2009 but the complaint was filed on 14.06.2010 i.e. after more than one year and there is no cogent explanation regarding this delay. This long delay, in the facts and circumstances of the present case, is fatal to the complainant's case. Secondly, I find that nothing has been brought on record that any application was given to the police for registration of the case. As there was no medical evidence regarding any injuries etc. therefore, even the accused were not summoned under Section 323 IPC.

Furthermore, the complaint has been filed by the Gram Panchayat through Gurdeep Singh, Sarpanch but it is admitted that earlier civil suits were going on between accused persons and the Gram Panchayat, in which no stay was granted but in a civil suit against Gurdeep Singh in personal capacity, status quo order was already passed by the civil Court, which is mentioned at page 13 of the petition. Learned counsel for the respondent mainly relied upon the resolution passed by the Gram Panchayat on that very day and sent to BDPO etc. In this resolution also, it is written that accused obstructed the work and stopped the work at the spot and tried to beat Sarpanch and gave him very filthy abuses and they threw some bricks in the pond after digging the same.

At the time of arguments, it is admitted that the police was already present at the spot and the *rasta* was made *pucca* in the

presence of the police. In the complaint, nowhere, it is mentioned that police officials were present. The copy of DDR dated 05.06.2009 which is Annexure P-11 shows that at 1.50 P.M., it is entered that Karnail Singh, Gram Sewak, Block Amloh came present and informed that today at Gram Panchayat Majra Manna Singh Wala for making road *pucca*, force is needed, regarding which order has already been received. So ASI Satnam Singh, HC Sadhu, HC Sahib Singh, HC Jaswinder singh, HC Bashish Bhardwaj were going to village Majra Manna Singh Wala. Another DDR Annexure P-12 is on the record which is of the same day recorded at 5.45 P.M., in which it is stated that ASI Satnam Singh along with other employees who have went to village Majra Manna Singh Wala came back in the police station along with Karnail Singh, Gram Sewak etc. At the spot, there was no dispute which deserves to be mentioned. These documents which are recorded by the police in the DDR on 05.06.2009 show that no such occurrence took place at the spot.

In view of these documents and long delay of one year and further from the Annexures P-7 to P-19 that no such application was given by the Gram Panchayat to the police for registration of the case, it is clear that complaint in question is nothing but abuse of process of the law. As civil litigation between Gram Panchayat and some of the accused is pending in the civil Court, therefore, to put pressure upon the accused, the present complaint has been filed.

In view of the above discussion, I find merit in the present petition and the same is allowed. Therefore, complaint No.89 dated

14.06.2010, summoning order dated 09.12.2010 and all other subsequent proceedings arising therefrom are hereby quashed.

September 17, 2015
Vgulati

(INDERJIT SINGH)
JUDGE