

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-22261 of 2015

Date of decision: 13.07.2015

Gulzar Singh

.....Petitioner(s)

Versus

State of Punjab & anr.

.....Respondent(s)

CORAM:- HON'BLE MR.JUSTICE DARSHAN SINGH

* * *

Present: Mr. Sandeep Arora, Advocate for the petitioner(s).

DARSHAN SINGH, J.

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, (in short 'the Cr.P.C.') for quashing FIR No.97 dated 2.11.2011 under Sections 326, 323 read with Section 34 of the Indian Penal Code (in short 'the IPC') Police Station Ghania Ke Bangar Police District Batala, District Gurdaspur and consequent proceedings.

2. As per the prosecution allegations, Antarprit Kaur, the daughter of complainant/respondent No.2-Shahbaj Singh, was married with Harjot Singh, the son of the petitioner. The matrimonial dispute took place between them and the litigation was pending. The complainant has filed a case under Section 498-A of the IPC against the in-laws of his daughter which was pending in the Court of SDJM, Batala. That on 21.10.2011, he along with his family members and son Paramvir Singh came to attend the Court. When they were returning to their village and reached at some distance ahead of Pulli Janglan on their motorcycle, a car bearing registration No.PB-81-S 0995 came from behind and struck the motorcycle as a result of which they fell down. Thereafter, Harjot Singh armed with

Kirpan, present petitioner Gulzar Singh armed with Kirpan, Avtar Singh armed with baseball bat, Majja Singh armed with datar, one unidentified person armed with hockey and Gurmit Singh driver of Manjit Kaur caused injuries to the complainant and his son as a result of which this case has been registered.

3. Learned counsel for the petitioner contended that the present case has been got falsely registered by respondent No.2. An enquiry in the matter was conducted by DSP Fatehgarh Churian and Gurmit Singh, the driver of Manjit Kaur, was not found to be involved in this occurrence. Due to this finding in the enquiry, the whole prosecution version collapses as it is the main allegation that Gurmit Singh hit the motorcycle with car. The complainant and his son fell down and thereafter, they were caused the injuries.

4. He further contended that petitioner Gurmit Singh had earlier filed a criminal complaint against respondent No.2 with respect to the incident dated 8.5.2008 and respondent No.2 was summoned by the learned Sub Divisional Judicial Magistrate Dasuya vide order dated 6.10.2010. He contended that the present case is the result of the matrimonial dispute. Various other cases have been filed by the complainant party in order to mentally harass and trouble the petitioner and his family members. He contended that as the present case is based on concocted story, the proceedings are liable to be quashed.

5. I have duly considered the aforesaid contentions.

6. As per the provisions of Section 482 Cr.P.C., this Court can use the inherent powers to pass the appropriate orders to prevent the abuse of the process of any Court or otherwise to secure the ends of the justice. The inherent powers under Section 482 Cr.P.C has to be exercised sparingly, carefully and with caution and only when such exercise

is justified by the tests specifically laid down in the provision itself. These inherent powers cannot be exercised to stifle the legitimate investigation and prosecution

7. The Hon'ble Apex Court in case **State of Andhra Pradesh v. Gourishetty Mahesh and Others 2010 Criminal Law Journal 3844** held that exercise of jurisdiction under Section 482 Cr.P.C. is an exception and not the rule. The High Court would ordinarily not embark upon an enquiry as to whether evidence is reliable. The interference must be on sound principles and the inherent powers should not be exercised to stifle a legitimate prosecution.

8. The Hon'ble Apex court in case **State of Haryana and Others v. Ch. Bhajan Lal and Others 1991(1) R.R.C.(Criminal) 383** has laid down the following guidelines wherein such extraordinary powers should be exercised:

“1. where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

2. where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

3. where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a

case against the accused;

4. where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code;

5. where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

6. where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

7. where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

9. It was further laid down as under:

“108. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness

or otherwise of the allegations made in the F.I.R. Or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice.”

10. We are to examine the case in hand as per the aforesaid ratio of law laid down by the Hon'ble Apex Court. In the FIR in question recorded on the statement of respondent No.2-Shahbaj Singh, there are specific and categorical allegations that the present petitioner was armed with Kirpan. He gave lalkara to his associates to caught hold respondent No.2 and that nobody should be spared and to teach them a lesson for calling them to the Court. It is further the specific allegation that Gulzar Singh-petitioner gave the kirpan blow on the left arm of Paramvir Singh, the son of respondent No.2. Similar specific allegations have been levelled against the co-accused for causing the injuries to respondent No.2 and his son Paramvir Singh. The Medico Legal Report of Shahbaj Singh depicts four injuries on his person. Similarly, four injuries were caused to his son Paramvir Singh. Out of those injuries No.1 and 2, which were with sharp weapons, have been declared as grievous in nature. So, there are the specific allegations in the FIR supported from the medical evidence.

11. The petitioner has not placed on file the copy of the enquiry report allegedly conducted by the Deputy Superintendent of Police Fatehgarh Churian to support his contentions.

12. The fact that in a private complaint relating to the occurrence dated 8.5.2008, respondent No.2 along with his co-accused has been summoned to face the trial is also no ground to quash the present FIR and the consequent proceedings as the allegations in the present case are to be adjudicated upon independently on the basis of material/evidence

brought on record in this case.

13. Thus, keeping in view my aforesaid discussion as there are the specific allegations against the petitioner, the guidelines laid down by the Hon'ble Apex Court in **Ch. Bhajan Lal's** case (supra) are not fulfilled at all. It cannot be stated that from the allegations mentioned in the FIR, no offence is attracted against the petitioner.

Consequently, the present petition is devoid of any merit and the same is hereby dismissed.

July 13, 2015

ps

(DARSHAN SINGH)
JUDGE

