

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

CRM-M No.26022 of 2015.

Date of Decision: 06.08.2015.

Vikrant @ Mikki

....Petitioner.

VERSUS

State of Punjab and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sandeep Arora, Advocate for the petitioner.

SNEH PRASHAR, J.

A petition under Section 482 of the Code of Criminal Procedure (for short, "Cr.P.C.") was filed by the petitioner for quashing/ setting aside order dated 02.11.2013 passed by learned Additional Chief Judicial Magistrate, Pathankot, vide which the application under Section 156(3) Cr.P.C. filed by the petitioner was dismissed.

The application filed by the petitioner under Section 156(3) Cr.P.C. before learned Judicial Magistrate Ist Class, Pathankot vide order dated 24.02.2012 was ordered to be registered as a complaint and the complainant was called upon to lead evidence. Besides examining himself

as CW3, the petitioner examined Dr. Parveen Kumar as CW1 and Constable Rajinder Kumar No.372 as CW2 and tendered documents Ex.C1 to C4.

Considering the submissions made by learned counsel for the petitioner and the evidence adduced, learned Additional Chief Judicial Magistrate, Pathankot vide the impugned order dated 02.11.2013 dismissed the application-complaint of the petitioner.

Feeling aggrieved with the order dated 02.11.2013 passed by learned trial court, the petitioner filed the instant petition.

The submissions made by Mr. Sandeep Arora, learned counsel representing the petitioner have been heard.

It was argued on behalf of the petitioner that on 16.09.2009 at about 7:30 p.m., he was badly beaten by respondents No.2 to 6 with their respective weapons namely baseball bat, *datar* and *dangs*. He was rescued by one Ashok Kumar and Raj Kumar and was brought to the hospital by his father where he was medico legally examined. Five injuries were found on his person and injury No.4 after radiological examination was declared as grievous. His statement was recorded by Assistant Sub Inspector Pritam Pal of Police Station Taragarh on 16.10.2010 but lateron instead of registration of case against the respondents, a false case was registered against him (petitioner). Learned counsel contended that the statement of the petitioner was corroborated by medical evidence which was sufficient for the learned Magistrate to summon the respondents or send the complaint for registration of the case.

There appears to be no merit in the argument of learned

counsel for the petitioner. Having thoroughly examined the ocular as well as documentary evidence adduced by the petitioner, the findings of learned trial court were as under:-

“Complainant has also proved on record copy of order dated 18.11.2011 passed by Hon'ble High Court in Criminal Misc.-M.No.34893 of 2011 (O&M) as Mark-A and said order was passed by Hon'ble High Court in the petition under Section 482 Cr.P.C. filed by complainant for issuance of directions to the SSP, Pathankot and SHO, PS Narot Jaimal Singh to take action in cross case and register case against Avinash Sharma, Prem Kumar, Kamaljit alias Tannu, Luv and Vicky and aforesaid petition under Section 482 Cr.P.C. was dismissed and it was ordered that petitioner may invoke his alternative remedy of either filing a complaint or approaching the Magistrate and it is worth noting here that aforesaid petition was filed in the year 2011, whereas, the alleged occurrence took place on 16.9.2009, meaning thereby, said petition under Section 482 Cr.P.C. was also filed by the complainant after a delay of about 2 years and thereafter the present application/complaint was filed on 12.12.2011 and thus, there is unexplained delay on the part of complainant in reporting the matter to the police and filing the present complaint and the complainant has also not explained as to why the complaint was not filed at the earliest and on account of this delay, it not only gets bereft of the advantage of spontaneity, danger creeping in of the introduction of exaggerating account or a concocting story as a result of deliberation and consultation and for these reasons, it was essential for the prosecution to satisfactorily explain this delay but this inordinate delay has not been explained by the complainant satisfactorily.”

As observed by learned trial court, in his application-complaint filed under Section 156(3) Cr.P.C. the petitioner had given no details of the occurrence. It was not mentioned which accused-respondent was armed with which particular weapon and which injury was attributed to him. On the contrary, while appearing in the witness box, the complainant gave an improved and exaggerated statement specifically stating the weapon held by

each of the accused-respondents and the injury caused by each of them. The version of the petitioner was that he was saved from the clutches of the accused-respondents by one Ashok Kumar son of Jagdish Raj and Raj Kumar son of Ram Rattan but none out of the said witnesses was examined to support his version. On the statement of the petitioner, D.D.R. No.20 dated 16.10.2010 was recorded but the enquiry held by Bhupinder Singh Virk, Superintendent of Police, Pathankot revealed that his version was false. The occurrence allegedly took place on 16.09.2009 at 7:30 p.m. whereas the petitioner filed a petition before this court invoking the provisions of section 482 Cr.P.C. and seeking a direction to Senior Superintendent of Police, Pathankot to register a case on his cross version in November, 2011. The said petition was dismissed and it is thereafter that the instant application-complaint was filed. The inordinate delay remained unexplained by the complainant-petitioner.

Thus, finding no ground for interference in the order dated 02.11.2013 passed by learned trial court, the present petition is dismissed.

(SNEH PRASHAR)
JUDGE

06.08.2015
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