

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

CRM-M No.34220 of 2015

Date of Decision:-15.10.2015

Sehzad & Ors.

.....Petitioners.

Versus

State of Haryana & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ramesh Chahal, Advocate for the Petitioners.

JASWANT SINGH, J.(ORAL)

The petitioners have filed the present petition under Section 482 Cr.PC for quashing of Criminal Complaint No.115 dated 2.5.2012 under Sections 148, 149, 386, 395, 436, 506 IPC as well as the summoning order dated 18.04.2014 (Annexures **P-1 & P-2** respectively) passed by the trial Court as well as the order dated 13.7.2015 passed by the Revisional Court affirming the summoning order.

The petitioners have claimed to have lodged an FIR bearing No.17 dated 18.01.2011 under Section 148, 149, 323, 302 IPC at P.S. Hathin, District Palwal, wherein victim Wasim Akram had been allegedly murdered. It is pointed out that as a counter blast the accused therein got another FIR registered bearing No.19 dated 20.01.2011 under Sections 148, 149, 379, 436 IPC at P.S. Hathin through the complainant Ashok Kumar,

wherein no particulars of the offenders were given. It is further highlighted that besides this one more case bearing FIR No.23 dated 22.01.2011 under Section 323, 452/376(g) IPC, at P.S. Hathin was registered against Wasim Akram (deceased) and Mustak, Asgar, Irshad and Mubarik. This FIR was registered on the basis of statement given by Farjana.

It is submitted on behalf of the petitioners that these cross versions i.e. FIR No.19 as well as FIR No.23, which were investigated thoroughly and nothing incriminating was found and resultantly were concluded by way of untrace report and cancellation report respectively.

Counsel for the petitioners heard at length.

It has been argued that the filing of the impugned criminal complaint dated 2.5.2012 (**P-1**) has been described as an abuse of process of law, and nothing but a counter blast to the FIR No.17 dated 18.01.2011.

The aforesaid argument raised is liable to be rejected due to the following reasons:-

Merely because in the FIR got registered by the complainant either untrace or cancellation report were submitted but that alone is not sufficient to operate as a bar for institution of a private complaint under Section 200 Cr.PC. The complaint was instituted on 2.5.2012, whereas the cancellation was filed before the Court on 02.06.2012. The remedy of private complaint is available in law and the Court has to examine the contents of the complaint and the evidence on record to find out, if prima facie offence is made out to summon the accused persons. This exercise has already been done by the trial Court, whereby it has examined the contents of the complaint and the pre-summoning evidence adduced on behalf of the

complainant, which reflects the ingredients of offence and commission thereof.

The order was further challenged in the Court of Revision and the court has minutely examined the important features of the case and has passed a detailed order by affirming the order of summoning. Except for factual aspect in respect of the sequence of events no other ground has been raised to seek intervention of court under Section 482 Cr.PC. The orders impugned have been examined and are found to be passed, in accordance with law.

Even the FIR which is allegedly got registered at the instance of the petitioner Shahabudin i.e. FIR No.17 dated 18.01.2011 has ended in acquittal and, therefore, it is apparent that their own version is not established and, therefore, cannot simply plead that the cross version is a counter blast. In these facts and circumstances the cross version which is now being examined by the Court below through the private complaint must continue and the complainant cannot be deprived of discharging the onus, which has already adduced the preliminary evidence to make out a prima facie case sufficient for summoning of the accused.

In view of the foregoing discussion, no case for interference by this court exercising jurisdiction under Section 482 Cr.PC is made out.

Dismissed.

(JASWANT SINGH)
JUDGE

October 15, 2015
Vinay