

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

**Crl. Misc. No.M-7531 of 2015 (O&M)
Date of decision :- 25.08.2015**

Raja Ram and others

.....Petitioner(s)

Versus

Vikram Singh

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. J.P. Sharma, Advocate
for the petitioners.

ANITA CHAUDHRY, J.

The petitioners are seeking quashing of the complaint, summoning order and the subsequent proceedings on the plea that the complaint was frivolous and a counter blast to the FIR got registered by them.

Petitioner no.1 is stated to be a retired army personnel while petitioner no.2 is working in the Electricity Board. It is claimed that respondent Vikram filed a false complaint before the SDJM, Mahendergarh in which they have been summoned. It has been pleaded that petitioner no.1 had lodged an FIR on 29.06.2013 against Vikram and his father as they were cutting the tree on their land and when they intervened, they were beaten up and petitioner no.1 sustained a fracture. It is pleaded that the complaint was a counter

blast with a view to pressurize the petitioners for withdrawing the case. It is also claimed that the MLR was got done two days later and there was no independent witness.

On the last hearing, the petitioners had been asked to place on record the MLR of the respondent. Copy of MLR (Annexure P-5) has been placed on file.

Heard.

The counsel for the petitioners contends that the complaint and summoning order should be quashed as it is a counter blast as FIR had been got registered by petitioner no.1.

Broad guidelines have been framed by the Hon'ble Apex Court for exercise of powers under Section 482 Cr.P.C. in the case of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, AIR 1992 SC 604, which read as under:-

"105. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid

formulae and to give an exhaustive list of myriad kinds of cases wherein such power 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 F.I.R. 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.”

In ***State of Karnataka Vs. L. Munniswamy and others*** (1997) 2 SCC 699, the Hon'ble Supreme Court of India had held that the High Court is entitled to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or where the ends of justice require that the proceeding ought to be quashed. It has further been held that the High Courts have been invested with inherent powers both in Civil and Criminal matters to achieve a salutary public purpose. A court proceeding ought not to be permitted to degenerate into a weapon of harassment of prosecution. The Court further observed that the ends of justice are higher than the ends of mere law through justice must be administered according to laws made by the legislature.

The arguments put forth on behalf of the petitioners is that the father and son are the only witnesses and the MLR was conducted two days later. If the principles set out above are applied to the present case, I am of the view that the case cannot be thrown out at the threshold. It is for the trial Court to examine the evidence and record a finding based on the evidence which may appear at the trial. There are allegations in the complaint and the trial Court after examining the evidence led before it had summoned the petitioners. No case for quashing is made out. The petitioners may raise all the issues before the trial Court.

The petition is dismissed.

25.08.2015
sunil

(ANITA CHAUDHRY)
JUDGE