

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-24801 of 2013 (O&M)
Date of Decision: January 12, 2016

Iqbal alias Bhura alias Bhure Khan

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashwani Bhardwaj, Advocate
for the petitioner.

Mr.Himmat Singh, Asstt. Advocate General, Punjab
for the respondent-State.

None for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C.
for quashing of FIR No.503 dated 12.12.2012 under Sections 457 and
380 IPC registered at Police Station Puhana, District Mewat and all
the consequential proceedings arising thereto.

Notice of motion was issued and learned State counsel
appeared, filed reply and contested the petition. Learned counsel for
respondent No.2 appeared earlier but today none appeared on behalf
of respondent No.2.

I have heard learned counsel for the petitioner as well as
learned State counsel and have gone through the record.

From the record, I find that FIR in the present case has been got registered by complainant Kalu Hanif. As per the averments of the FIR, sons of the complainant are married to daughters of the petitioner. Babloo and Imran, sons of petitioners came to the house of the complainant on 16.08.2012 and stayed there at night. When the complainant's family got up in the morning, then they found that both Babloo and Imran were not present. The silver ornaments weighing 5 kgs., gold ornaments weighing 20 tolas and cash worth ₹87,000/- were found to be stolen by them. It is further in the FIR that Rasid met the complainant in the morning and told him that the petitioner was seen at the bus stand in the night and all three father-sons in conspiracy with each other, committed theft at his house.

At the time of arguments, it is stated that no silver or gold ornaments have been recovered in this case. The police has found Babloo and Imran as innocent during investigation. Only ₹500/- is stated to have been recovered from the present petitioner Iqbal alias Bhura alias Bhure Khan. It is also admitted at the time of arguments that there was no special mark etc. on the currency note of ₹500/- to connect it with the stolen property/cash. The perusal of the FIR itself shows that the present petitioner has not trespassed the house of the complainant, therefore, no offence under Section 457 IPC is made out against him. Similarly, as the petitioner has not gone to the house of the complainant, therefore, no offence is made out under Section 380 IPC.

As regarding, the currency note of ₹500/-, as there is

nothing to connect that currency note with the stolen property/cash, therefore, no case is made out against the present petitioner. Otherwise also, it is in the petition that daughter of present petitioner has already filed the FIR in the year 2009 under Sections 498-A and 406 IPC against the complainant party at Jaipur. Learned counsel for the petitioner, therefore, argued that the present FIR has been got registered falsely to put pressure upon the present petitioner to take the benefit in FIR which was registered in the year 2009 and the case is at final stage of its decision.

Otherwise also, if during investigation, Babloo and Imran, who had gone to the house of the complainant, are found innocent, then, it means that no theft of any property/cash was committed by them. Therefore, in that way also, present petitioner cannot be held to have committed any offence.

Keeping in view the facts and circumstances of the case, I find that the registration of present FIR against petitioner Iqbal alias Bhura alias Bhure Khan is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. FIR No.503 dated 12.12.2012 under Sections 457 and 380 IPC registered at Police Station Puhana, District Mewat and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

January 12, 2016
Vgulati

(INDERJIT SINGH)
JUDGE