

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 278

Criminal Miscellaneous No.M-22539 of 2015 (O & M)
Date of Decision: October 19, 2016

Suresh Kumar & others

..... PETITIONERS

VERSUS

State of Haryana & another

..... RESPONDENTS

...

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

...

PRESENT: - Mr. J.S. Cooner, Advocate, for the petitioners.

Mr. Parveen Aggarwal, Deputy Advocate General,
Haryana.

. . .

Jaspal Singh, J

1. By virtue of the present petition, preferred under Section 482 Cr.P.C., petitioners have sought quashing/setting aside of order dated April 16, 2012 (Annexure P-2) passed by the Sub Divisional Judicial Magistrate, Safidon in Criminal Complaint No.269 dated March 01, 2012 as well as order dated May 11, 2015 (Annexure P-3) passed by the Sessions Judge, Jind, whereby revision petition against order dated April 16, 2012 has been dismissed.

2. As per the complaint, on June 20, 2011, complainant – Yogender Singh was going towards his new house from the old house. Accused Master Asal Singh (driving motorcycle) and petitioners in Scorpio

stopped their vehicles near Yogender Singh. They beaten up the

complainant, snatched his mobile and put him forcibly in their vehicle. On hearing the noise of complainant, Ragbir, Happar, Rohtash came at the spot and tried to save him. Sumit @ Banti (son of complainant) was also trying to save him but accused struck the side of their vehicle to motorcycle of Banti, due to which, he fell down. Accused persons took the complainant to Police Station, Safidon and got his signatures on some blank papers. Complainant came to know that he was arrested by the accused persons, without giving any information to local police of Safidon. He was given beating and hurled abuses by the accused persons. Complainant lodged complaints to higher authorities but police did not take any action. Hence, complainant instituted the instant complaint.

3. On the strength of preliminary evidence adduced by respondent No.2 – complainant, petitioners were summoned to face trial under Sections 323, 342, 506, 511, 34 IPC vide impugned order dated April 16/18, 2012 (Annexure P-2).

4. Aggrieved against order dated April 16/18, 2012 (Annexure P-2), petitioners preferred revision petition which was also dismissed by the Sessions Judge, Jind, vide judgment dated May 11, 2015 (Annexure P-3).

5. Still dis-satisfied, petitioners have approached this Court by way of instant petition under Section 482 Cr.P.C. for quashing/setting aside the orders passed by the courts below.

6. Learned counsel for the petitioners has argued that both the courts below did not consider that petitioners, during investigation of FIR No.193 dated June 15, 2011 under Sections 406, 498-A, 323, 506, 34 IPC, Police Station, Mahesh Nagar, reached Safidon on June 20, 2011 and went to the house of Raj Kumar in village Muana, District Jind. They found the

from Sarpanch – Rajinder Singh, Vijender Singh, Kanwar Pal, Afsal and Ramesh of village Muana. They came to know that complainant – Yogender @ Yogi can tell the whereabouts of Raj Kumar. Thereafter, Yogender @ Yogi and his son were joined in the investigation and they went to Safidon to trace out Raj Kumar and his family members but could not succeed. Yogender called his cousin Purshotam Dass, Advocate at Police Station, Safidon, whereafter, they gave in writing that Raj Kumar and his family members are not in their contact and would help to apprehend them, whereafter petitioners left to village Sandhali, District Yamuna Nagar at 6.00 PM on June 20, 2011, where notice under Section 160 Cr.P.C. was received by Jyoti wife of Rajesh Kumar and petitioner No.2 directed her to appear in Police Station, Mahesh Nagar alongwith her husband on June 22, 2011 at 10.00 AM in connection with FIR, referred to above.

7. Learned counsel for the petitioners further contended that both the courts below did not consider the fact that petitioners had acted in discharge of their official duties and they have no personal interest against the complainant. He was only joined the investigation of case FIR No.193 dated June 15, 2011 under Sections 406, 498-A, 323, 506, 34 IPC, Police Station, Mahesh Nagar. As such, summoning orders passed by the courts below, in the absence of sanction under Section 197 Cr.P.C., are not sustainable and same are liable to be quashed/set aside by way of acceptance of the instant petition.

8. This Court has given a deep thought to the submissions made by learned counsel but find the same to be without any legal and factual substance.

9. The case projected by the revisionists is that they had gone to village of complainant – respondent No.2 in search of one Raj Kumar

who has been named as accused in case bearing FIR No.193 dated June 15, 2011 under Sections 406, 498-A, 323, 506, 34 IPC, Police Station, Mahesh Nagar. Since complainant – respondent No.2 was known to said Raj Kumar, he was associated in the investigation to enquire the whereabouts of aforesaid Raj Kumar as he was not found available on the address given in the FIR.

10. A glance at impugned order dated May 11, 2015 (Annexure P-3), vide which criminal revision petition preferred by the petitioners was dismissed by the court of Sessions Judge, Jind, reveals that petitioners had placed a copy of case diary No.10 which instead of supporting the case of petitioners, fortified the version of complainant – respondent No.2 as it discloses that Mr. Purshotam Dass, Advocate of complainant visited the Police Station and on his undertaking, complainant Yogender @ Yogi was allowed to leave the Police Station. It clearly indicates that complainant – respondent No.2 was taken to the Police Station but was released only after an assurance and undertaking was given by his Advocate. Otherwise also, undoubtedly, complainant was not an accused in any case at all. The FIR, referred to above, was only against Raj Kumar and complainant, at the most, can be termed to be his acquaintance. There was no justifiable reason with regard to the summoning of complainant in the Police Station where he was made to sit. He appears to have been brought to the Police Station or kept detained for the simple reason of enquiring the whereabouts of Raj Kumar. Such an action on the part of police officials is condemnable. It cannot be said to have been done in discharge of their official duties. Thus, Section 197 Cr.P.C. is not at all attracted. Moreover, the protection provided under Section 197 Cr.P.C. is to protect a responsible public servant against lodging

committed by them while they are acting or purporting to act as public servants. There is no reasonable connection between act and purpose of the official duties to provide protection of Section 197 Cr.P.C.

11. Taking the case of the petitioners from either of the angles, this court of the considered view that no ground is made out to quash/set aside the impugned orders, rather the same are absolutely in consonance with the evidence as well as legal proposition applicable to the facts and circumstances of the case in hand.

12. Dismissed.

October 19, 2016
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No