

**Criminal Miscellaneous No.M-38556 of 2014 (O & M)**

**Date of Decision:** *January 12, 2016*

**Balraj Singh**

..... PETITIONERS

*VERSUS*

**State of Punjab & another**

..... RESPONDENT(S)

. . .

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

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1.     Whether Reporters of local papers may be allowed to see the judgment?
2.     To be referred to the Reporters or not?
3.     Whether the judgment should be reported in the Digest?

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**PRESENT:** -    Mr. Rahul Sharma, Advocate, for Mr. P.S.  
                             Brar, Advocate, for the petitioner.

Mr. Arjinder Singh Sidhu, Assistant Advocate  
General, Punjab, for respondent No.1.

None for respondent No.2.

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**Jaspal Singh, J**

1.             Through this petition preferred under Section 482  
  
Cr.P.C., petitioner – Balraj Singh has sought quashing of  
  
complaint No.116 dated August 30, 2010 (Annexure P-1) as  
  
well as summoning order dated August 8, 2014 (Annexure P-2)

passed by learned Additional Chief Judicial Magistrate, Faridkot, whereby, he has been summoned to face trial under Sections 323, 452, 506, 148, 149 IPC.

2. The brief facts recapitulated from the petition are that petitioner – Balraj Singh was posted as Head Constable at Police Station, Sadar Kotkapura. On the basis of statement of one Gurdarshan Singh, he got registered FIR No.83 dated July 28, 2009 under Sections 323, 341, 506, 34 IPC against respondent No.2 – Gurtek Singh and his brother Harnek Singh, and investigated the same. Subsequent thereto, respondent No.2 – Gurtek Singh lodged the complaint, quashing of which, has been sought through the instant petition.

3. As per the complaint, the occurrence is alleged to have taken place on June 22, 2010 at about 8.00 PM when petitioner alongwith Sarvpreet Singh etc. allegedly barged into the house of complainant – respondent No.2, manhandled the complainant and gave beatings to him while hurling lalkaras to the effect that he will be done to death in case he does not withdraw the case.

4. During the course of arguments, it revealed that the petitioner was posted as Head Constable at Police Station, Sadar Kotkapura. On the day of occurrence, he left for

patrolling alongwith some other police officials at 5.10 PM. This fact is evident from the copy of DDR No.21 dated June 22, 2010 (Anenxure P-3). Moreover, it is also highly doubtful that a person who is investigating the case against complainant – respondent No.2 would join hands with his alleged co-accused and indulge in criminally tress-passing in his house and/or will cause injuries to him. Rather, it appears that just to settle his own score, respondent No.2 has arrayed him as one of the accused alongwith others with whom respondent No.2 may have some dispute.

5. No doubt the power of quashing in a criminal proceeding should be exercised very sparing and with circumspection, that too, in the rarest of rare cases. Yet, if the criminal proceeding appears to be manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view of spite him due to private or personal grudge, the same can be quashed.

6. Adverting to the facts of the case in hand, the petitioner is proved to have got registered the FIR on the basis of statement of Gurtek Singh – respondent No.2 and investigated the same, and on the day of alleged occurrence, the

petitioner was on patrol duty as is evident from the above referred DDR (Annexure P-3). So, the arraying of petitioner in the complaint as one of the accused in which he has been summoned to face trial alongwith some other accused persons is nothing but an abuse of the process of law. Thus, the complaint as well as summoning order in question deserves to be quashed.

5. Accordingly, the instant petition is allowed. Complaint No.116 dated August 30, 2010 (Annexure P-1) as well as summoning order dated August 8, 2014 (Annexure P-2) and all other consequent proceedings are quashed.

**January 12, 2016**  
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**(Jaspal Singh)**  
**Judge**