

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-40448 of 2015
Date of decision : March 04, 2016

Balwinder Singh and others

...Petitioners...

versus

Pargat Singh

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

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?

Present : Mr. Onkar Singh Batalvi, Advocate,
for the petitioners.

JASPAL SINGH, J.

Instant petition has been preferred by Balwinder Singh and others under Section 482 of the Code of Criminal Procedure for quashing of complaint No.272/11, dated 07.12.2011 (Annexure P-4), summoning order dated 05.10.2015 (Annexure P-7) and charge sheet dated 05.10.2015 passed by Sub Divisional Judicial Magistrate, Batala, whereby the petitioners have been summoned.

2. The contention of learned counsel for the petitioners is that petitioner No.2 got registered FIR No. 52, dated 01.06.2011, under Sections 324, 323, 148, 149 and 427 IPC against respondent-Pargat Singh and others. Subsequently, an offence under Section 326 IPC was added. During the investigation of the aforesaid case, Major Singh son of Labh Singh and

Amolak Singh son of Pargat Singh filed CRM-M-24395 of 2011 before this Court seeking direction to inquire into the complaint made by them and proceed against petitioners as per law. When the aforesaid petition was pending, Deputy Superintendent of Police, Qadian, Police District Batala came to the conclusion that simple injuries inflicted to Major Singh were suffered by himself. It was opined that injury on the person of Major Singh is self-suffered whereas injury on the person of Kamaljit Singh was due to falling down from their tractor and the petitioners were found innocent in that very complaint. When he and his other co-accused in FIR (Annexure P-1) could not succeed in getting the cross-case registered against the petitioners, they through Pargat Singh-respondent got filed a criminal complaint pertaining to the same incident by levelling false allegations. The said complaint is nothing but a counter blast to the FIR. Pursuant to the complaint, petitioners were summoned vide order dated 17.12.2013 to face trial under Sections 307, 326, 342, 148 and 149 IPC whereas the complaint qua Balwant Singh, Mangat Singh, Harjinder Singh and Satnam Singh, was dismissed. Subsequent thereto, charges were also framed against the petitioners for the commission of alleged offence vide order dated 05.10.2015. Since, the petitioners have already been declared innocent in an earlier enquiry conducted by Deputy Superintendent of Police, Qadian, therefore, instant complaint, summoning order as well as charge-sheet are nothing but an abuse of process of law. As such, same are liable to be quashed.

3. This Court has given a deep thought to the submissions made by learned counsel for the petitioners but find the same to be of without any

legal or factual substance.

4. The mere fact that Deputy Superintendent of Police, Qadian has found the petitioners to be innocent and further that the cross-version case has not been registered does not *ipso facto* mean that the allegations levelled in the instant complaint are false or that the complaint is a counter blast to the FIR. There are specific allegations against the petitioners that they formed unlawful assembly and in pursuance thereof caused injuries to Amolak Singh and Kamaljit Singh in furtherance of their common intention. The inquiry report given by the Deputy Superintendent of Police, Qadian can not be termed to be a gospel truth. Moreover, it is a version and cross-version case and the trial court is already seized of the matter. The observation made by Deputy Superintendent of Police in enquiry report that the injuries suffered by Kamaljit Singh and Amolak Singh are self-suffered or on account of their own, cannot be taken to be a gospel truth, at this stage. The petitioners are already facing the trial. Charge-sheet has already been framed against them. In view of the pendency of trial and framing of charges under Sections 307, 326, 342, 148 and 149 IPC, it cannot be said that the complaint is a counter-blast to the FIR or that the version unfolded by Amolak Singh is false or concocted one. So, in such circumstances neither the complaint nor the subsequent proceedings can be quashed.

5. This Court is of the considered view that no case is made out for quashing of either complaint or other subsequent proceedings. Hence, petition stands dismissed.

6. However, the petitioners shall be at liberty to take all the pleas taken in this petition before the trial court. It is also made clear that any

observation made in this order shall have no bearing on the merits of the main case.

March 04, 2016
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(JASPAL SINGH)
JUDGE