

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM NO. M-44444 of 2014
DECIDED ON : MAY 03, 2016

PARAMJIT SINGH AND ANR

....PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

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. Liaqat Ali, Advocate,
for the petitioners.

Mr. J.S. Sekhon, AAG, Punjab.

Mr. J.S. Dadwal, Advocate
for respondent No.2.

JASPAL SINGH, J. (ORAL)

Instant petition has been preferred under Section 482 Cr.P.C. seeking quashing of complaint No. 352 dated July 15, 2011 (Annexure P-4) under Sections 452, 323, 341 and 506 IPC pending in the Court of learned Judicial Magistrate Ist Class, Ludhiana as well summoning order dated April 28, 2012 (Annexure P-5) and all subsequent proceedings arising therefrom.

2. The contention of learned counsel for the petitioners is that petitioner No.1-Paramjit Singh has been working in BSNL for the last many

years and respondent No.2 has been filing false complaints against the petitioners levelling false allegations against them, as he intended to get the services of petitioner No.1 terminated as well as to harass him and his wife. In the year 2004 petitioners lodged a DDR against respondent No.2.

3. Due to the afore-said animosity, when son of respondent No.2 committed suicide while implicating the in-laws of his son, respondent No.2 also falsely implicated the petitioner No.1. A detailed inquiry was conducted by the police in which petitioner No.1 was found to be innocent. Subsequent thereto, petitioner No.1 was thrashed by respondent No.2 and his sons and some other persons. At that time, he sustained multiple injuries. The said incident was reported to the police whereupon, FIR No. 116 dated November 06, 2010 under Sections 341, 323, 506, 148 and 149 IPC and Section 325 IPC added later on, was registered. However, due to the pressure exercised by respondent No.2 upon petitioner No.1, he agreed to effect the compromise and ultimately respondent No.2 and others were acquitted in that case.

4. Even after the acquittal on the basis of compromise, respondent No.2 did not desist/harass him to achieve his ulterior motive and by concocting a false story, he lodged a complaint (Annexure P-4). On the basis of which, petitioners were summoned to face trial under Sections 452, 323, 341, 506 and 120-B IPC. The allegations levelled in the complaint, if taken on its face do not constitute a cognizable offence. Even otherwise, allegations made in the complaint are so absurd and inherently improbable, on the basis of which, no prudent person can ever reach at a conclusion that there is sufficient ground for proceeding against the petitioners.

5. It has been further contended by learned counsel for the petitioners that the complaint has been maliciously instituted with an ulterior motive to harass the petitioners. Though, it has been alleged that petitioners along-with some other persons while armed with gandasa and knife trespassed into the house of complainant but to the utter surprise, they did not sustain even a single scratch. Neither respondent No.2 got himself medico legally examined nor placed and proved on record any MLR showing sustaining of any injury. Neither any incident has taken place nor the allegations constitute any offence. The complaint as well as summoning order and subsequent proceedings, are liable to be quashed.

6. On the other hand, while controverting the various submissions made by learned counsel for the petitioners, learned counsel for respondent No.2 assisted by learned State counsel have argued that occurrence did occur on July 01, 2011 at about 9.30 PM when petitioners accompanied by some other persons criminally trespassed into the house of respondent No.2, that too, while armed with deadly weapons, caused injuries and extended threats to his life. The mere fact that there is no MLR brought on record by respondent No.2 does not *ipso facto* mean that allegations contained in the complaint are false or that the complaint has been with malice or to wreak vengeance. Rather, statement of the complainant finds full corroboration from other eye witnesses of the occurrence who have appeared and disposed in details specifying the role played by petitioners. Thus, the question of quashing the complaint or summoning order does not arise at all and instant petition being devoid of merits is liable to be dismissed.

7. This Court has given an anxious thought to the various submissions made by learned counsel for the parties and have scanned the complaint as well as summoning order; besides going through the other documents available on record.

8. It is an undisputed fact that the son of respondent No.2 committed suicide and respondent No.2 while lodging the complaint against the in-laws of his son also implicated petitioner No.1. Inquiry in this matter was conducted by senior officers of the police, in which, the allegations were found to be false and report in this regard is dated November 10, 2006 (Annexure P-2). Subsequent thereto, when respondent No.2 failed to achieve his goal, he opened an attack upon petitioner No.1 and caused injuries, regarding which, FIR (Annexure P-3) was registered at Police Station Daba, District Ludhiana under 341, 323, 506, 148 and 149 IPC (Section 325 IPC was added later on). Thereafter, when respondent No.2 has been facing the trial, he with the intervention of some persons got the matter patched up and secured his acquittal. But even thereafter, he did not mend his ways and filed the instant complaint (Annexure P-4). The allegations levelled in the complaint, on the face of it appear to be inherently improbable.

9. As per the allegations, it does not appeal to reason that when eight persons armed with deadly weapons like gandas and knife etc. trespassed into his house with a motive to cause injuries, it is unbelievable that no injury would be sustained by either respondent No.2 or any other family member. Here, it would also be pertinent to mention that no complaint has also been lodged to the police immediately after the alleged occurrence and only a complaint

(Annexure P-4) was filed after a gap of 15 days. Thus, all the afore-said facts coupled with each other lead to a conclusion that complaint has been instituted with a malice and ulterior motive to wreak vengeance and to harass the petitioners.

10. In the light of what has been discussed above, this Court is of the considered view that complaint (Annexure P-4) is nothing but an abuse of process of law and appears to have been lodged with an ulterior motive. As such, the complaint (Annexure P-4) as well as summoning order dated April 28, 2012 (Annexure P-5) and subsequent proceedings if any, are quashed qua petitioners by way of acceptance of instant petition.

11. Allowed.

MAY 03, 2016
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(JASPAL SINGH)
JUDGE