

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR No.2178 of 2015(O&M)
Date of Decision: August 29, 2016**

Puran

...Petitioner

VERSUS

Rampal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.R.Yadav, Advocate
for the petitioner.

Mr.Tapan Kumar Yadav, Advocate
for respondents No.1 to 4.

Mr.Vikas Chopra, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Puran against Rampal and other respondents, challenging the impugned judgment dated 13.04.2015 passed by learned Addl. Sessions Judge, Rewari, vide which the revision filed by the respondents No.1 to 4 against the order dated 01.12.2014 passed by learned Chief Judicial Magistrate, Rewari, was allowed.

Notice of motion was issued and learned counsel for respondents No.1 to 4 as well as learned State counsel appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that Puran complainant filed a complaint against Desh Raj, Lal Singh etc. (total 14 accused) under Sections 448, 427, 506 and 120-B IPC. The brief facts of the complaint as noted down in the order dated 01.12.2014 by learned CJM, Rewari, are as under:-

“2. In nutshell, it is the case of the complainant that he has been owner in possession of a plot situated in khasra no. 175 Village Mamdia Ahir, Tehsil & District Rewari. On 20.07.2008 at about 10:00 AM, Ram Chander s/o Kanhi Ram, Ved Parkash s/o Ram Chander, Sonu s/o Sube Singh, Rampal s/o Hemraj, Raju s/o Rampal, Sunil s/o Rampal, Anita w/o Maman Singh, Kailash w/o Rampal, Meena w/o Ved Parkash, Rajesh w/o Sube Singh and Maman Singh s/o Ram Chander have broken a fore-walls of his plot, tin shed and iron gate. His wife Santosh and his son Ashi, Laxmi Narayan s/o Ganga Sahai, Dharambir s/o Ganesh Lal reached at the spot and restrained them from destruction of his walls, then they threatened them to cause their death. On the intervening night of 18/19.07.2008, Hemraj s/o Kanhi Ram, Ram Chander s/o Kanhi Ram, Kartar s/o Sheodan, Rampal s/o Hemraj, Raju s/o Rampal and Sunil s/o Rampal have demolished the walls of his plot and tin shed and thereafter, the accused persons namely Deshraj, Ram Chander, Ved Parkash, Sonu, Rampal and Raju threatened them to cause their death. In this regard, the father of the complainant has moved an application to the police dated 19.07.2008. However, he has called upon by the police in the Police Post Kund, there he has been disclosed by his son Ashok Kumar that Deshraj, Sonu, Raju, Anita, Meena, Rajesh and Maman have demolished the walls and iron gates of his plot and they have thrown the array, cutticator and cattle feed out of the plot. Thereafter, he asked ASI Sube Singh that he has conspired with the accused persons and with his connivance, the accused persons have demolished his wall, and he shall disclosed all these facts to District Collector, Rewari, to which, SHO Lal Singh has disclosed him that he shall do what he want. Thereafter, FIR No. 184 dated 24.08.2008 has been registered against the accused persons. On 08.09.2008 at about 02:30/03:00 PM, his wife went to his plot for putting garbage. There Hemraj s/o Kanhi Ram restrained her from putting garbage and inflicted injuries to her. Regarding the aforesaid incident, the matter has been reported to the police and on the next day at about 10:00 AM, she was medico legally examined. When his wife passing through the plot, Ram Chander s/o Kanhi Ram and his family members Hem Raj s/o Kanhi ram, Rampal s/o Hemraj, Raju s/o Rampal, Sonu s/o Sunil, Maman Singh s/o Ram Chander, Sonu s/o Sube Singh,

Kailash Devi w/o Rampal, Anita w/o Maman, Rajesh w/o Sube singh, Meena w/o Ved Parkash and Urmila w/o Sunil started inflicting injuries to his wife. He heard her cries and came at the spot and he has been caught hold by Raju and Rampal. Accused Maman gave a lathi blow in his head. On hearing his cries, Jagdish s/o Chet Ram, Dharambir s/o Ganeshi Lal, Chet Ram s/o Devi Sahai and Santoshi came at the spot to rescue them, to which, Raju gave lathi blow in the back of Dharambir s/o Ganeshi Lal. Jagdish has been caught by Hemraj and he has inflicted injuries by Sharmila w/o Raju. On hearing his cries, complainant, Jagdish s/o Chet Ram, Dharambir s/o Ganeshi Lal, Chet Ram s/o Devi Sahai, Santoshi w/o Gobind came at the spot to rescue them, to which, they also inflicted injuries to them. The matter has been report to the police and FIR No. 200 has been registered against them. It is prayed that the accused persons may kindly be summoned to face trial under sections 448/427/506/120B IPC.”

Learned CJM, Rewari, after going through the statements of the witnesses, the copies of MLR and X-ray reports, summoned accused Rampal, Raju, Rajesh under Sections 323 and 325 read with Section 149 IPC and summoned accused Sube and Anita under Section 323 read with Section 149 IPC. A revision was filed by present respondents No.1 to 4 and learned Addl. Sessions Judge, Rewari, vide impugned judgment dated 13.04.2015, accepted the revision and set aside the order dated 01.12.2014 passed by learned CJM, Rewari.

Aggrieved from the above-said impugned judgment dated 13.04.2015, present revision has been filed by the complainant-petitioner.

From the perusal of the impugned judgment passed by learned Addl. Sessions Judge, Rewari, I find that respondents No.1 to 4 and other person Sube were summoned vide order dated 01.12.2014 to face trial in the complaint moved by Puran against 14 persons regarding the incident taken place on the intervening night of 18/19.07.2009 regarding which FIR No.184 dated 14.08.2008 was registered and further alleging about the

incident dated 08.09.2008 for which FIR No.200 dated 10.09.2008 was registered. The complainant alleged in the complaint that challan against Anita, Kailash, Rajesh and Sube Singh was not presented in FIR No.200. The Court held that as far as the incident dated 18/19.07.2008 is concerned, FIR No.184 dated 14.08.2008 was registered under Sections 448, 427, 506 IPC regarding the said incident and the case pertaining to that FIR was decided on 28.04.2012. The appeal preferred by complainant against the said judgment has also been decided on 10.11.2014. The case regarding FIR No.184 has already been decided, hence, there is no need to go into discussion regarding the said FIR.

As regarding incident dated 08.09.2008, the trial Court observed that qua the remaining accused persons, complainant as well as injured witnesses have levelled general and vague allegations which find no corroboration with the medical evidence and no specific role have been attributed to the remaining accused. Learned Addl. Sessions Judge further held that regarding the facts of the complaint and the statements of witnesses recorded in the preliminary evidence, it is clear that FIR No.200 dated 10.09.2008 was already registered regarding the incident dated 08.09.2008. The challan was presented against accused Sonu @ Sunil, Ram Chander, Sharmila, Anita Devi, Raj Kumar @ Raju, Maman Singh, Hem Raj and Rampal and during investigation Meena Devi, Kailash Dev, Rajesh Devi, Sunita and Sonu were found innocent and challan against them was not presented. The accused against whom the challan was presented were charge-sheeted in the case pertaining to FIR No.200 vide order dated 31.07.2010. The statement of accused under section 313 Cr.P.C. was recorded on 03.04.2012. An application under section 319 Cr.P.C. was filed

by complainant for summoning the accused namely Meena Devi, Kailash Devi, Rajesh Devi, Sunita and Sonu but prior to the application moved by complainant under section 319 Cr.P.C., he had already filed the complaint on 07.04.2009. The application moved by the complainant under Section 319 Cr.P.C. was dismissed by learned Magistrate being neither trustworthy nor substantiated by medical evidence.

Lower Appellate Court held that the complainant did not bring into the notice of the court that Sube Singh had expired despite the fact that complaint was moved in the year 2009 and he did not bring into the notice of the court in the proceedings of complaint about the application moved by him under section 319 Cr.P.C. in FIR No.200 which was dismissed vide order dated 26.08.2014. The order passed under Section 319 Cr.P.C. was not challenged by complainant. Learned lower Appellate Court after relying upon the law also found merit in the revision petition filed by the accused-respondents and the same was accepted and the order dated 01.12.2014 passed by learned CJM, Rewari summoning the accused-respondents was set aside.

From the record, I find that findings given by learned Addl. Sessions Judge, Rewari, are as per evidence and law. The FIR has already been registered and trial was conducted on the similar facts against the accused on behalf of the complainant and the application under Section 319 Cr.P.C. was also filed to summon the remaining accused, which was dismissed and no revision was filed against the dismissal of application under Section 319 Cr.P.C. Therefore, in these circumstances, the filing of independent complaint and the summoning order passed by learned CJM,

Rewari, in the complaint cannot sustain. No illegality has been committed

by learned Addl. Sessions Judge, Rewari, while passing the impugned judgment dated 13.04.2015.

In view of the above discussion, I find that the impugned judgment dated 13.04.2015 passed by learned Addl. Sessions Judge, Rewari, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present revision petition, the same is dismissed.

August 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No