

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

CRM-M-12165-2016 (O&M)
Date of decision : 06.10.2017

Harbhajan Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. Loveleen Dhaliwal, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Jitender Kumar and
ASI Gurnam Singh.

Mr. B.S. Chauhan, Advocate,
for Mr. L.M. Gulati, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J.

This petition under Section 482 of the Code of Criminal Procedure has been filed seeking quashing of FIR No.189 dated 20.06.2015, registered under Sections 323, 452 and 506 of the Indian Penal Code (for short, 'the IPC'), at P.S. Tripri Town, District Patiala.

Contents that the petitioner filed a criminal complaint against his daughter-in-law/niece of the complainant, wherein, she was summoned to face trial. As a counter-blast, the instant FIR has been lodged against the petitioner on false and frivolous allegations only the pressurize the petitioner to withdraw the complaints filed by him against the complainant and his family members. In the complaint, the complainant has levelled

allegations against a constable and a lady constable along with the petitioner. However, after inquiry, both the police officials have been exonerated thereby, falsifying the complainant's version.

On the other hand, learned counsel for the respondent has opposed the instant petition. It is contended that specific allegations have been levelled against the petitioner.

Heard.

In the inquiry conducted by the Deputy Superintendent of Police, City-II, Patiala, it has surfaced that two constables including one lady constable visited the house of the complainant for serving arrest warrant upon Harmanpreet Kaur, daughter of the complainant. When these officials left the place, the petitioner came to the house of the complainant and misbehaved with the complainant and manhandled him. Accordingly, the instant FIR has been registered. Challan already stands presented and charges have been framed against the accused-petitioner. The trial is in progress. The arguments raised by learned counsel for the petitioner relate to the factual aspect of the matter, which shall be dealt with by the trial Court at appropriate stage after appreciating the evidence led by the parties. Hon'ble the Supreme Court has laid various guidelines on the subject in case reported as ***State of Haryana and others Vs. Ch. Bhajan Lal and others, 1991(1) RCR (Crl.) 383***, which are reproduced as under:-

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose

a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

A perusal of the above guidelines would show that in cases, where disputed question of fact is involved and requires evidence to prove the same, provisions of Section 482 Cr.P.C. cannot be invoked.

The Court feels that no cause of action has arisen in favour of

the petitioners to invoke the inherent jurisdiction of this Court by way of filing the instant petition. Consequently, the instant petition is dismissed.

06.10.2017			(JITENDRA CHAUHAN)
<i>atulsethi</i>			JUDGE
	Whether speaking / reasoned :	Yes	No
	Whether Reportable :	Yes	No