

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

**Crl. Misc. No. M-28876 of 2017 (O&M)
Date of Decision: August 08, 2017**

Bhajan Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr J.S. Bhandohal, Advocate
for the petitioners.

JAISHREE THAKUR, J. (Oral)

This is a petition under Section 482 Cr.P.C., praying for quashing of order dated 16.01.2017 passed by learned Addl. Sessions Judge, Amritsar, whereby, the case has been remanded to Judicial Magistrate Ist Class, Ajnala, for a fresh decision in the complaint No.161 dated 20.09.2013 titled as “*Manjit Singh vs. Bhajan Singh and others*”.

2. In brief, the facts as stated are that respondent No.2-complainant filed a complaint under Sections 452, 323, 324, 325, 342, 354, 427, 379, 148, 149 of Indian Penal Code in the court of Judicial Magistrate Ist Class, Ajnala, which stood dismissed by order dated 30.01.2016. Against that order, respondent No.2 filed criminal revision before the court of learned Addl. Sessions Judge, Amritsar, who set aside the order dated 30.01.2016 and remanded the case back for a fresh decision. Aggrieved against the said order, remanding back the case for a fresh decision, the

instant petition has been filed.

3. Mr. J.S. Bhandohal, counsel appearing on behalf of the petitioners contends that the learned Judicial Magistrate Ist Class, Ajnala, passed a detailed order, on the basis of evidence produced by the complainant and therefore, there was no ground made out to remand the matter, to be decided afresh. The Judicial Magistrate Ist Class, Ajnala, while dismissing the complaint held that there was no reasonable explanation for the delay in filing of the complaint, while also taking note of the fact that respondent No.2-complainant did not place on record any site plan to show the place of occurrence, nor placed on record any copy of registry regarding ownership of the house, allegedly broken into.

4. I have heard counsel for the petitioners and have also gone through the pleadings of the case.

5. Respondent No.2-complainant filed a complaint under the aforesaid sections, *inter alia* alleging that the accused persons forcibly entered into his house and they were armed with daangs and gave daang blow on the head and other parts of the body. As soon as his wife came to rescue him, Tota Singh and Kulwant Singh torn the clothes of his wife and broken the doors and windows of the house as well. The Judicial Magistrate Ist Class, Ajnala, dismissed the case on the ground that respondent No.2-complainant had failed to show that he had approached the police or that he was the owner of the house, where the alleged incident took place. This order was reversed by learned Addl. Sessions Judge, Amritsar, holding that respondent No.2-complainant in preliminary

evidence had examined Dr. Satinderpal Singh as CW1, who proved the MLR of the complainant along with Pictorial Diagram. Further, while stepping into the witness box as CW2, the complainant reiterated the averments of his complaint and also examined Bawa Singh as CW3 in support of his contentions.

6. The learned Addl. Sessions Judge, Amritsar, has rightly held that once in preliminary evidence, the complainant had been examined and proved the MLR, supporting his statement that he had received injuries, it would be more than enough to entertain the complaint. It has rightly been held that the complaint could not have been dismissed, on the ground that complainant did not prove that he approached the police and also did not prove the ownership of the house. At the stage of summoning, the courts are to see, whether a prima facie case is made out against the accused persons and the statement of complainant, supported by medical evidence, would be reason enough to proceed under the complaint.

7. Finding no illegality or infirmity in the impugned order passed by learned Addl. Sessions Judge, Amritsar, remanding the matter back to the trial court, this petition being devoid of any merits, stands dismissed.

August 08, 2017

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No