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

CRM-M-34610 of 2014

Date of decision : October 9th, 2017

Geeta and others ... Petitioners.

Versus

Amar Nath and another ... Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mrs. Prathibha Yadav, Advocate
for the petitioners.

Mr. Parduman Yadav, Advocate
for respondent No.1.

Mr. Satish Saini, Deputy Advocate General, Haryana.

SHEKHER DHAWAN, J.

1. Present petition under Section 482 Cr.P.C. is for quashing of complaint No.145/ NS dated 31.08.2010 (Annexure P-1); summoning order dated 10.09.2013 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Gurgaon, as well as order dated 26.05.2014 (Annexure P-6) passed by learned Additional Sessions Judge, Gurgaon, whereby the revision against the summoning order was dismissed and all subsequent proceedings arising therefrom.
2. Facts relevant for the purpose of decision of this petition; that a Criminal Complaint (Annexure P/1) was filed by Amar Nath against Geeta

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and others, for commission of offence punishable under Sections 323, 452, 500, 504, 506, 120-B IPC, on the allegation that on 14.08.2010, at 8.00/ 8:30 a.m., the complainant was washing his auto rickshaw which was parked in his house. Meanwhile, one boy came from the village, scaled the wall and passed from there. Later on, Geeta got enraged and after coming to the house of the complainant started abusing and asked him as to why he had allowed the strangers to pass from that place. Meanwhile, all the accused, except Maha Singh, trespassed to his house. At that time, Kuldeep was armed with *lathi*; Keshwati was armed with *danda* and Shamwati was armed with stone and all of them raised *lalkara* along with Geeta. The complainant retorted to that. Meanwhile, his wife Simran also came there. Geeta snatched *Danda* from Keshwati and gave a blow with the same on both hands of his wife, Kuldeep gave a lathi blow to Simran, which hit her fingers and Shamwati gave kicks and punches blows in the abdomen of his wife and gave stone blow. Resultantly, his wife sustained injuries and when he tried to rescue her wife then all the above persons gave kicks and punches blows and insulted him by using bad and unparliamentary language. The complainant raised alarm which attracted other persons from the neighbourhood, namely, Rajni and Satya who rescued the complainant and his wife.

3. Thereafter, the complainant reported the matter to the police and medico legal examination of the injured was got conducted by the police. However, the police did not take any action and as such, the complaint was filed before the Court below.

4. On filing of the complaint (Annexure P-1), learned Magistrate

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called for the report under Section 202 Cr.P.C. from the SHO concerned and also recorded statement of Amar Nath as CW1; Satya as CW2; Rajni as CW3; Constable Manish as CW4 and Simran wife of the complainant as CW5.

5. While considering the statements of the complainant, injured person as well as the eyewitnesses to the occurrence and perusing the report under Section 202 Cr.P.C. submitted by the SHO concerned, the learned Magistrate recorded the reasons that *prima facie* case is made out against the accused persons for commission of offence punishable under Sections 323, 452, 504, 506 and 120-B IPC vide summoning order dated 10.09.2013 (Annexure P-4).

6. The said order was challenged by way of revision petition before the Court of Session at Gurgaon and learned Additional Sessions Judge, Gurgaon vide detailed order dated 26.05.2014 (Annexure P-6) dismissed the revision petition while recording the finding that learned Magistrate has formed opinion, on the basis of evidence and material available on the file including preliminary evidence as well as the report under Section 202 Cr.P.C., that there was a *prima facie* case for summoning the accused persons and as such, while maintaining the order Annexure P-4 dismissed the revision petition.

7. Learned counsel for the petitioners contended that both the Courts below have not considered that there is not even *prima facie* case for proceeding further because the present petitioners and the complaint as well as summoning order and the order passed by learned Additional Sessions Judge are liable to be quashed.

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8. Learned counsel for the respondents, on the other hand, contended that the orders passed by the Courts below are perfectly valid and legal and warrant no interference by this Court inasmuch as the accused persons have caused injuries to Simran, wife of the complainant and *prima facie* case is made out against the accused persons.

9. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that learned Magistrate has duly considered the statements made by complainant, CW-1, Amar Nath as well as his injured wife, CW-5- Simran and eye-witnesses namely, CW-2 Satya and CW-3, Rajni apart from the statement of CW-4, Constable Manish, who had taken the injured for medico legal examination as also the report under Section 202 Cr.P.C. submitted by the SHO. Learned Magistrate while exercising the judicial discretion and appreciating the material and evidence available on the file, passed the summoning order. Learned Additional Sessions Judge had also scrutinized the entire material before him and passed the detailed order that there was absolutely no ground to set-aside the summoning order passed by the Magistrate on 10.9.2013.

10. Law on the point is settled that at the time of summoning of the accused, the Court is to see that a *prima facie* case is made out against the accused persons. In the present case, learned Magistrate was right while appreciating the statements of the complainant, injured namely Simran and other eye-witnesses that there was a *prima facie* case so as to proceed further against the accused – persons for commission of offence punishable under Sections 323, 452, 504, 506 and 120-B IPC and the

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Additional Sessions Judge has rightly upheld the said order. No case is made out to interfere with the impugned orders.

11. The present petition is without any merit and same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

09.10.2017.
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Whether Speaking/reasoned	:	Yes
Whether Reportable	:	No