

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

**Criminal Misc. No.M-38801 of 2017
Date of Decision: 13.10.2017**

Sunil Kumar

...Petitioner(s)

Versus

Rajender Kumar & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. J.P. Sharma, Advocate
for the petitioner.

HARI PAL VERMA, J.

Through the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973, the petitioner-complainant has impugned the judgment dated 13.08.2015 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Narnaul, whereby the complaint filed by the petitioner was dismissed. Challenge has also been laid to order dated 07.07.2017 (Annexure P-2) passed by learned Additional Sessions Judge, Narnaul, whereby the revision petition filed by the petitioner against the judgment dated 13.08.2015 was also dismissed by learned Additional Sessions Judge, Narnaul.

Briefly stated, the petitioner had filed the instant complaint under Sections 166/167/203/209/211/499/500 and 120-B IPC against the respondents-accused with the averments that he is working as a Constable in Rajasthan Police. On 3.10.2010 at 8-30 p.m., a quarrel took place between the villagers of Thatwadi and the mining mafia. The mining mafia, who had political patronage and good relations with the police, got registered case/FIR No.204 dated 04.10.2014 under Sections 147/149/323/325/435/506/379 and 120-B IPC at Police Station Sadar Narnaul against the petitioner. Similarly, another mining mafia namely Shiv Kumar Mehta, Rajender Kumar, Parveen Kumar and Shitiz Chaudhary got registered case/FIR No.364 dated 04.04.2010 and case/FIR No.363 dated 4.4.2010 against the petitioner and others at Police Station Khetri, District Jhunjhnu. The accused started blackmailing the petitioner after registration of the case. Since the petitioner was a Government servant and was not present at the scene of occurrence, he made a request to the higher authorities for investigation of the matter. Accordingly, ASP Sukhbir Singh investigated the matter and has found the petitioner innocent in the case. It has been further averred that because of registration of FIR against the petitioner, he has suffered mental and physical agony. He has been defamed in the society. Registration of false FIR against the petitioner has spoiled his reputation in the eyes of his villagers. No fight had taken place, as alleged, in the area of Haryana, but the petitioner and other people were falsely implicated in the case, with an

intention to extort money. Respondent No.2-EASI Dharam Singh, respondent no.3-Inspector Sadhu Ram, SHO and Respondent no.3-DSP Kurda Ram have exceeded their powers and registered false cases against the petitioner with an oblique motive. The petitioner had submitted a complaint to DGP, Haryana and other senior officers on 10.3.2014, but no action was taken against these officers and it is in these circumstances, the petitioner has filed the present complaint.

Learned trial Court after hearing both the parties and appreciating the evidence on record dismissed the complaint vide judgment dated 13.08.2015.

Aggrieved from the judgment dated 13.08.2015, the petitioner-complainant filed a revision petition, which was also dismissed vide order dated 07.07.2017 passed by learned Additional Sessions Judge, Narnaul. The revisionary Court has observed that in FIR No.204 dated 04.10.2014 under Sections 147/149/323/325/435/506/379 and 120-B IPC registered at Police Station Sadar Narnaul, Rajinder Kumar was the complainant and he has not named the petitioner as an accused. It is only during the course of investigation, it was transpired, on the basis of statements of other witnesses that the petitioner is also an accused. Thus, if the name of the petitioner has cropped up during the course of investigation, the police officials are bound to make inquiries from the accused and they are even empowered to arrest the accused. Therefore, it cannot be held that the petitioner was harassed in any manner.

Still not satisfied, the petitioner has filed the present petition, assailing the judgments passed by the Courts below.

Learned counsel for the petitioner has argued that the petitioner is working in Rajasthan police and because of his false implication in the cases, his reputation has been damaged adversely. He has further argued that learned Magistrate has wrongly observed that in order to proceed against the respondents-accused, who are police officials in the State of Haryana, sanction of Section 197 CrPC is required, as respondent no.1 is a private person and respondent no.4 had retired at the time of institution of the complaint, no sanction was required *qua* them. Rather, if any official commits any offence beyond his duty, no sanction under Section 197 CrPC is required. He has further argued that no occurrence had taken place in the State of Haryana and regarding the same occurrence, trial was already pending in the State of Rajasthan and therefore, the FIR against petitioner was palpably false, which has caused injury to the reputation of the petitioner.

I have heard learned counsel for the petitioner.

There are concurrent findings of fact recorded by both the Courts below. Learned trial Court, while appreciating the evidence led by the petitioner-complainant has rightly come to the conclusion that once an FIR is registered, investigation of the case is an integral part of duties of the police officials. It is only after investigation of the

matter, the police has found the petitioner innocent and accordingly, his name was deleted from the list of accused.

The respondents-accused while conducting investigation in the case have acted strictly as per the duties assigned to them. Therefore, the accusations levelled by the petitioner-complainant against the respondents-accused that sanction was not necessary, cannot be accepted. The Court is under statutory obligation not to take cognizance of an offence which relates to a public servant in discharge of his official duties except with prior sanction of the competent authority. It is only after registration of the case, the accused have come in action and conducted investigation in the matter.

The plea raised by learned counsel for the petitioner that it has harmed the reputation of the petitioner cannot be accepted for the reason that the petitioner has failed to establish that the respondents-accused have acted with *malafide* intentions, particularly when initially, the petitioner was not named in the FIR and it is only during the course of investigation, on the basis of statements of other witnesses, his name cropped up as an accused. Moreover, the petitioner was neither arrested nor any enthusiastic attempt was made by the police to arrest him at any stage. Once the petitioner-complainant has failed to establish that the police officials have acted deliberately or harassed him, it cannot be presumed that the police officials have acted in a biased or illegal manner.

Therefore, this Court does not find any merit in the present case to interfere with well reasoned judgments passed by both the Courts below.

Accordingly, the present petition is dismissed.

October 13, 2017
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No