

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

(1) CRM No.M-39926 of 2014 (O&M)

Malkiat Singh and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

(2) CRM No.M-39948 of 2014 (O&M)

Amandeep Kaur and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

(3) CRM No.M-43583 of 2014 (O&M)

Ruldoo Singh

...Petitioner

VERSUS

Malkiat Singh and others

...Respondents

Date of Decision: December 01, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sunil Agnihotri, Advocate
for the petitioners.

Mr.Ayush Sarna, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.S.S.Khaira, Advocate
for respondent No.2 (in CRMs No.M-39926 and 39948 of 2014)

and for the petitioner (in CRM No.M-43583 of 2014).

INDERJIT SINGH, J.

This order shall dispose of all the above-mentioned connected cases as the point for determination in all the cases is the same.

CRMs No.M-39926 and 39948 of 2014 have been filed by petitioners-accused under Section 482 Cr.P.C. for quashing the order in complaint No.25/2009 whereby learned Sub Divisional Judicial Magistrate, Mukerian, has summoned the petitioners vide order dated 22.03.2014 under Section 420 IPC, on the basis of false and fabricated complaint and also for quashing the judgment dated 25.09.2014 passed by learned Addl. Sessions Judge, Hoshiarpur, vide which the revision filed by the petitioners-accused was dismissed.

CRM No.M-43583 of 2014 has been filed by petitioner-complainant under Section 482 Cr.P.C. against the accused-respondents challenging the order dated 22.03.2014 passed by learned SDJM, Mukerian, vide which the accused-respondents were only summoned under Section 420 IPC and not summoned under Sections 171 G, 471/34 IPC and Section 17 & 31 of the Representation of People Act, 1950 and also challenging the judgment dated 25.09.2014 passed by learned Addl. Sessions Judge, Hoshiarpur, vide which the revision petition filed by petitioner-complainant was dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent-complainant appeared and contested the petitions.

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 Ruldoo Singh complainant filed a complaint against Malkiat Singh, Iqbal Kaur, Rajveer Kaur and Amandeep Kaur under Sections 171G, 471/34 IPC and under Representation of People Act, 1950. The brief averments of the complaint as noted down in the impugned order dated 22.03.2014 passed by learned SDJM, Mukerian, are as under:-

“2. Present complaint has been filed by the complainant asserting therein that accused persons are permanent residents of above mentioned address and their names have been enrolled and enlisted in the voter list of Ward No. 8, Gurdaspur City as follow:-

Sl. No.	Voter No. of 2008	Name	Identity Card No.	Vote No. of year 2007
1.	964	Malkiat Singh S/o Darshan Singh	HDT 2027258	3582
2.	963	Iqbal Kaur W/o Malkiat Singh	HDT 2025096	3581
3.	962	Rajbir Kaur D/o Malkiat Singh	HDT 2027274	3579
4.	961	Amandeep Kaur D/o Malkiat Singh	HDT 2027266	3578

Ration card has also been issued in the name of Malkiat Singh, Iqbal Kaur, Rajbir Kaur and Amandeep Kaur, accused, showing them as residents of Ward No. 8, Randhir Colony, Gurdaspur. The abovementioned accused had never resided at village Naushera Pattan, H.B. No. 427, Block Mukerian, District, Hoshiarpur, but in order to get illegal benefits, all the accused persons with their ulterior motives and malafide intention have fabricated false documents and falsely got their names enrolled with the help of Partap Singh, Numberdar, Balbir Singh, Sarpanch of village Naushera Pattan, H.B. No. 427, Block Mukerian, Tehsil Mukerian, District, Hoshiarpur and Shri Sri Ram, Office Kanoongo, Mukerian, Tehsil Compound Mukerian, Gurmeet Singh, Patwari the then Circle Patwari of village Naushera Pattan, Block Mukerian, in the

voter list of village Naushera Pattan, East at H. No. 56 and their names have been enrolled as voters in the voter list of village Naushera Pattan, East as follows:

Sl. No.	Voter No. of 2008	Name	Identity Card No.
1.	264	Malkiat Singh S/o Darshan Singh	KSD 1854801
2.	265	Iqbal Kaur W/o Malkiat Singh	HDT 2025096
3.	266	Rajbir Kaur D/o Malkiat Singh	HDT 2027274
4.	267	Amandeep Kaur D/o Malkiat Singh	HDT 2027266

3. It has been further clarified by the complainant that all the accused persons, aforementioned, cast their votes in Municipal Committee Election at Gurdaspur, Distt. Gurdaspur and also cast their votes in the election of Gram Panchayat Election of village Naushera Pattan East, H.B. No. 427, Block Mukerian, Distt. Hoshiarpur held in May-June, 2008. Complainant moved several representations to the higher authorities including Deputy Commissioner-Cum-Election Officer of District, Hoshiarpur and Punjab State Election Commissioner, Punjab, Chandigarh but to no avail. Complainant even moved a writ petition before the Hon'ble Punjab and Haryana High Court, but the Hon'ble High Court has directed the complainant to approach the Magistrate's court under section 156 (3) of Cr.P.C. Hence present complaint has been moved by the complainant."

Learned SDJM, Mukerian, after appreciating the evidence, summoned the accused-petitioners to face trial under Section 420 IPC vide order dated 22.03.2014. Revisions were filed against the above-said order and learned Addl. Sessions Judge, Hoshiarpur, dismissed the revision petitions vide impugned judgments dated 25.09.2014 and held that accused-petitioners have been rightly summoned under Section 420 IPC. Aggrieved from the above-said order and judgments, accused-petitioners have filed two petitions for quashing the summoning order as well as judgment passed in the revision, whereas complainant has filed the petition for modifying the

summoning order and also to summon the accused under Sections 171 G, 471/34 IPC and Section 17 & 31 of the Representation of People Act, 1950.

From the record, I find that the only allegation in the complainant is that accused are major and have voter card at the address of Ward No.8, Gurdaspur and they have also votes in the village Naushera Pattan, Block Mukerian, District Hoshiarpur and they have cast their votes in the election of Sarpanch at Naushera Pattan in the month of May-June 2008.

The perusal of the complaint itself shows that no date, month and year has been mentioned as to when the accused cast their votes at Gurdaspur. It is stated that earlier also, the complainant moved several representations to Election Commission and to Deputy Commissioner but no action has been taken.

The perusal of the record shows that complaint is a vague. Nothing has been mentioned in the complaint as to when the accused have exercised their right of casting votes at Gurdaspur and in which election. Learned counsel for the petitioners-accused has placed on record copy of order passed by learned SDJM-cum-Election Registration Officer, which the petitioners have obtained under the RTI Act, which shows that present accused have already applied on 08.05.2008 for cancellation of their votes at Gurdaspur by stating that they are permanent resident of Naushera Pattan and they have been enrolled as voters at Gurdaspur by some person fraudulently. This shows that accused in the present complaint before casting their votes at Naushera Pattan in the month of May-June 2008, had already written to the competent authority to cancel their votes at

Gurdaspur, which were made in their name fraudulently by some other

person.

In view of the above discussion, I find that in no way, the accused can be summoned under Section 420 IPC. In other words, in no way, offence under Section 420 IPC is made out. It cannot be held that from the averments of the complaint and preliminary evidence, there are sufficient grounds to summon the accused-petitioners under any offence. Therefore, the impugned order dated 22.03.2014 passed by learned SDJM, Mukerian and impugned judgments dated 25.09.2014 passed by learned Addl. Sessions Judge, Hoshiarpur, are not as per law and the same are set aside.

Finding merit in the petitions filed by accused-petitioners i.e. CRMs No.M-39926 and 39948 of 2014, the same are allowed. Regarding the petition filed by the complainant-petitioner i.e. CRM No.M-43583 of 2014, as the summoning order and judgment passed in the revision have already been set aside, therefore, no ground is made out for modifying the summoning order or to summon the accused under any offence. Therefore, finding no merit in CRM No.M-43583 of 2014, the same is dismissed.

December 01, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No