

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

CRR No.3012 of 2016 (O&M)
Date of decision: 11.12.2017

Harcharan Singh

...Petitioner

Versus

Harkesh Kumar and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. P.S. Hundal, Advocate for the petitioner.

Mr. Khushdeep Deonkhera, Advocate for
Mr. S.P.S. Sidhu, Advocate for the respondents.

Jitendra Chauhan, J. (Oral)

By filing the present criminal revision, the petitioner has assailed the order dated 10.05.2016, passed by Addl. Sessions Judge, Fazilka (for short 'the Revisional Court'), whereby the order dated 02.12.2014, passed by Judicial Magistrate 1st Class, Jalalabad (W) (for brevity 'the trial Court') was set aside qua the respondents (herein), however, the same was affirmed qua the other accused.

It is contended that the learned Revisional Court has erred in setting aside the summoning order qua the respondents. The impugned order is the outcome of complaint dated 05.08.2014, filed by the petitioner against Davinder Singh and others, wherein the present respondents are accused Nos.8 and 9 respectively. The occurrence had taken place on 30.04.2014, when the polling for Parliament General

Elections was going on in the entire country. Accused No.1 Davinder Singh and his daughter in-law belong to ruling Akali Party and they pressurized the petitioner and his family to cast their votes in favour of Akali Candidate. On resistance by the petitioner, he was assaulted by the accused and given injuries, whereby injuries No.1 and 3 were found grievous after receipt of X-ray report. He further states that accused Davinder being Akali leader managed to obtain medico-legal report by showing fake injuries and with the aid of local police, a false FIR No.79 dated 30.04.2014, under Section 307, 295 and 323 read with Section 34 of IPC was registered against the petitioner and his family members. When the police did not take any action against the accused, thereafter, he filed the complaint whereby, the trial Court finding prima facie ground against the accused, summoned them to face the trial under Sections 450, 326, 325, 323, 295-A, 354, 506, 148 read with Section 149 of IPC and the present respondents were summoned under Sections 325, 323, 504, 506 and 295-A of IPC. Learned counsel further submits that the present respondents being police officials picked the petitioner from the hospital where he was admitted and he was beaten up at the police station in naked condition. However, the Revisional Court despite there being sufficient evidence on record and fact finding of trial Court, exonerated the respondents to face the trial.

On the other hand, learned counsel for the respondents argued that both the respondents are police officers and had no personal enmity with the petitioner. As per FIR, the incident took place on the

election day of the Member of Legislative Assembly on 30.04.2014, wherein injuries were inflicted upon the petitioner and other incident against the police officers i.e. present respondents took place on 02.05.2014, therefore, it cannot be presumed that the same as that of one and the same occurrence. The present FIR is nothing but a counter blast to the FIR registered against the petitioner much prior the petitioner reported the incident. Learned counsel for the respondents further submits that the petitioner and accused are involved in political vendetta and the respondents being police officials have been made scapegoat. The learned Revisional Court, finding no substance against the respondents has rightly set aside the summoning order against them.

Heard and perused the record.

In the instant case, the petitioner had filed a complaint against the accused whereby they were summoned by the trial Court, however, in the revision, the summoning order qua the present respondents was set aside by the learned Revisional Court. On perusal of record and after appreciation of material, this Court finds no force in the submissions made by learned counsel for the petitioner, whereby he alleged that present respondents being police officials picked the petitioner from the hospital where he was admitted and beaten up at the police station in naked condition. However, there is no material on record to support the assertion raised on behalf of the petitioner. The petitioner was arrested by respondent No.1 in FIR No.79 dated 30.04.2014, registered by accused No.1 Davinder Singh on account of causing

injuries to him. The petitioner in his complaint had alleged that after receiving injuries, his son got admitted him in Civil Hospital, Muktsar where he was medico-legally examined and ASI Harkesh Kumar, respondent No.1 got recorded his statement. Indeed, the incident took place on 30.04.2014, when the election was going on and the other incident against the present respondents took place on 02.05.2014 appears not to be one and the same incident. There is nothing on record to show the previous enmity of the respondents with the petitioner. The learned Revisional Court has rightly recorded that petitioner would have the remedy to file separate complaint or to pursue the other remedy against the present respondents, in accordance with law.

In view of the above, the present revision petition being devoid of any force is hereby dismissed.

11.12.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes No

Whether Reportable: Yes No