

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

**CRM-M-10212-2015(O&M)
Date of decision:-7.3.2018**

Mewa Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Ms.Supriya Garg, Advocate
for the petitioner.

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. seeking quashing of FIR No.67 dated 23.7.2013 for offence under Section 304-A IPC instituted at the instance of complainant - Balbir Kaur along with subsequent proceedings arising therefrom as well as order dated 17.3.2014 passed by Chief Judicial Magistrate, Mansa framing charge against the accused has been filed by Mewa Singh, who is an accused in the said FIR.

According to the petitioner, he has been falsely involved in

the FIR in question and wrongly charge-sheeted by Chief Judicial Magistrate, Mansa; that Balbir Kaur – complainant had got some portion of her residence constructed in Ward No.8, *Court Da Tibba*, Mansa; that the construction was completed a month prior to filing of the FIR dated 23.7.2013; that an electrical line of 11 KV passes directly above the house of the complainant; that the family of complainant admittedly after constructing the house had themselves pulled up the electric wires by deploying ballies (wooden battons) under them; that about 5-7 days prior to the day of the incident, the petitioner had gone for inspection of the line since a fault therein was reported; that the wooden battons, which supported the electric wires of 11 KV had been removed leading to death of Rajwinder Kaur - daughter and Gurdev Singh - husband of complainant, who were electrocuted. According to the petitioner, he had not acted in a rash and negligent manner and cannot be blamed for electrocution of Rajwinder Kaur and Gurdev Singh since he is Junior Engineer in the Electrical Department of State of Punjab, as such he is a public servant; that in terms of Section 21 IPC, he could not be prosecuted without getting prior sanction from the government under Section 197 Cr.P.C.; that family of the complainant themselves removed the wooden battons when they came to know that it may cause damage to the line/grid and even if it is taken that petitioner had removed the wooden battons that was done in pursuance of discharging his duty i.e. to correct the fault lines; that the electric line in question has been in working condition for the past 20-25 years and at the time of installation of the line, there was no construction below that; that 11 KV line is laid with the help of poles having height of 9 metre so that the line may keep

prescribed distance from the ground and no loss may be caused to life or property; that in the present case clearance of house and line decreased due to construction of house and family of complainant putting the battons unauthorizedly and thereafter removing the same; that as a matter of fact they were required to give written intimation to the municipal committee for the construction and also the department of the concerned wires, which they did not do; that the construction had been done illegally by complainant/her husband without obtaining permission from the municipal committee; that no site-plan was got approved from it; that Gurdev Singh was sent a notice No.2230 on 14.7.2011 by the department qua illegal construction but he refused to accept the notice; that in terms of Rule 82 of the Indian Electricity Rules, 1956, it is duty of the person raising construction to get the construction plan sanctioned to ensure safety; that no criminal offence is disclosed against the accused.

Notice of the petition was given to respondents. Although initially respondent No.2 had put in appearance in the Court but subsequently absented.

In the written reply filed by respondent No.1 - State, it is contended that 5-7 days prior to the incident, the petitioner visited the area for inspection of electric wires and removed the wooden sticks, which were deployed by respondent No.2 to keep the same at high level, as a result of which, the electrical wires came at very low height and on 23.7.2013, Rajwinder Kaur and Gurdev Singh, daughter and husband of respondent No.2 got electrocuted and died; that the accident took place due to negligence on the part of petitioner, therefore, the FIR was rightly

registered against him; that challan has been filed, charge framed and now the case is pending for prosecution evidence. It is further contended that if construction made by respondent No.2 was illegal then petitioner should have served a notice upon her and he has committed a heinous crime; that the FIR was properly recorded against him. Such respondent prayed for dismissal of the petition.

I have heard learned counsel for the parties besides going through the record.

The law is well settled that FIR can be quashed only if it does not disclose any cognizable offence or is found to be result of an abuse of process of law. The merits of the case are not to be looked into and evaluated at this stage. Here the perusal of the FIR goes to show that certainly an offence under Section 304-A IPC is shown to have been committed. Two persons had lost their lives, as a result of being electrocuted due to low lying electric wires. As per the allegations, the battons below the electrical line had been removed by the petitioner a few days prior to the incident. Thus, as per allegations rashness and negligence on the part of the petitioner is come out to be there. The FIR in question is certainly not an abuse of process of law. There is nothing to suggest that the complainant had any previous enmity with the accused and to settle that score, the FIR in question has been lodged. It cannot be said to be an abuse of process of law by any stretch of imagination. As pleaded by the State after registration of the FIR and completion of investigation, the challan against the accused has been filed in the Court and charge has already been framed. His guilt would be determined during the trial, which is expected to be concluded

shortly. The petitioner can raise any number of pleas regarding non-obtaining of sanction from the department/competent authority of accused before his prosecution and the non-compliance of Rule 82 of the Indian Electricity Rules, 1956. Learned counsel for the petitioner referred to citations *Satish Mehra Versus State (NCT of Delhi) and another (2012) 13 Supreme Court Cases 614*, *State of Karnataka Versus L.Muniswamy and others (1977) 2 Supreme Court Cases 699* and *Century Spinning and Manufacturing Co. Ltd. and others Versus State of Maharashtra (1972) 3 Supreme Court Cases 282* but those do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

I do not see any reason to allow the instant petition.

The petition being without merit stands dismissed accordingly.

7.3.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No