

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

(1)

CRM-M-11170-2018
Date of decision:-3.4.2018

Sukhdev Singh and another

...Petitioners

Versus

Bikrampal Singh Bhatti and another

...Respondents

(2)

CRM-M-11156 of 2018

Sukhdev Singh and another

...Petitioners

Versus

Iqbal Singh

...Respondent

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

Present : Mr.K.B.S. Mann, Advocate
for the petitioner(s).

H.S. MADAAN, J.(ORAL)

Vide this order, I propose to dispose of **CRM-M-11170-2018**
and **CRM-M-11156 of 2018**.

Petitioners – Sukhdev Singh and Paramjit Singh have brought
CRM-M-11170-2018, under Section 482 Cr.P.C. for quashing of order
dated 17.11.2017 passed by learned Additional Sessions Judge, Bathinda for
summoning of Bikrampal Singh Bhatti, IPS, Assistant Superintendent of

Police, City Bathinda, District Bathinda and Assistant Sub Inspector, Pal Singh, Incharge Police Post, Bus stand, Bathinda, Police Station Kotwali, Bathinda, District Bathinda (respondents No.1 and 2) has been dismissed besides quashing of order dated 30.11.2015 (wrongly mentioned as 15.9.2011 in the head note) to the extent that respondents were not summoned in complaint case titled Sukhdev Singh etc. Versus Iqbal Singh etc. pending in the Court of Chief Judicial Magistrate, Bathinda.

Whereas Petitioners – Sukhdev Singh and Paramjit Singh have brought **CRM-M-11156 of 2018** under Section 482 Cr.P.C. for quashing of order dated 17.11.2017 passed by learned Additional Sessions Judge, Bathinda whereby the revision petition filed by respondent – Iqbal Singh against the summoning order dated 30.11.2015 was allowed in complaint case titled 'Sukhdev Singh etc. Versus Iqbal Singh etc.' pending in the Court of Chief Judicial Magistrate, Bathinda.

Briefly stated, facts of the case are that Sukhdev Singh and Paramjit Singh had brought a complaint under Sections 323, 324/504, 506/341, 342, 343, 177, 182, 203,211, 167, 193, 109 & 120-B IPC against Iqbal Singh, the then General Manager PRTC Depot, Bathinda, Bikrampal Singh Bhatti, IPS, ASP City, Bathinda, Ranbir Singh, the then SHO PS Kotwali, Bathinda, ASI Kirpal Singh, CIA Staff, Bathinda and ASI Pal Singh, Incharge, P.P. Bus stand, Bathinda. As per allegations in the complaint – complainant Sukhdev Singh is an Ex. Serviceman, who after retirement is doing the job of a security guard in PRTC Workshop, Bathinda Depot. Similarly complainant No.2 Paramjit Singh was originally appointed as Conductor in PRTC Depot, Bathinda in 1973 and subsequently promoted as Sub-Inspector and thereafter deputed as Cashier in cash Branch of PRTC Depot, Bathinda; that on the

intervening night of 25/26.3.2011, a theft of about Rs.14 lakhs took place in cash branch of PRTC Depot Workshop, Bathinda; on 25.3.2011, complainant Sukhdev Singh alone was performing his duty as Security Guard; that Paramjit Singh after closing the cash branch at 10:30 p.m. had left the office to go home after being searched by Security Guard of PRTC Workshop; on the next morning of 26.3.2011 when Paramjit Singh reached his office at about 6:35 a.m. and opened the gate of varandah of cash branch, then he found that lock of Almirah of cash branch was lying broken, lights were on, fans were running and two iron rods were lying on the table and cash was missing; Paramjit Singh raised alarm, listening to which Sukhdev Singh, Security Guard and Nachhattar Singh besides Jagroop Singh, Conductor etc. assembled there; the matter of theft was reported to the police as well as General Manager, PRTC, Bathinda; the police came to the spot and inquired into the matter from various employees of the office; complainants and some other employees of PRTC were taken to Police Station Kotwali, Bathinda, however, only the complainants were retained, whereas others were allowed to go; Iqbal Singh the then General Manager, PRTC Depot, Bathinda in order to save his own skin and to avoid taking of any action against him, falsely took names of complainants as well as one Jagtar Singh, Fitter as suspects; Iqbal Singh made a false report and gave false information levelling false allegations of theft of Rs.14 lakhs against the complainants to accused Nos.2 to 5; this so happened since complainants were not obliging Iqbal Singh by accepting his illegal demands; on 26.3.2011, the complainants and one Jagtar Singh were wrongly restrained by accused Nos.2 to 5 at Police Station Kotwali,

Bathinda at the instance of accused No.1; the complainants were severely beaten and tortured; SHO Ranbir Singh told them that they would have to confess theft of Rs.14 lakhs; the complainants and Jagtar Singh were wrongly confined at CIA Staff, Bathinda also; they were subjected to custodial violence, later on they got themselves medically treated and subsequently the stolen amount had been recovered from some other persons.

On filing of the private complaint, the complainants led preliminary evidence. Thereafter, the trial Magistrate vide order dated 30.11.2015 found that a prima facie case was made out against accused No.1, 3 and 4, namely, Iqbal Singh, the then General Manager PRTC Depot, Bathinda, Ranbir Singh, the then SHO PS Kotwali, Bathinda and ASI Kirpal Singh, CIA Staff, Bathinda under Sections 323, 324, 504, 506, 342 and 120-B IPC, whereas complaint with regard to the remaining offences was dismissed. However, complaint with regard to accused Nos.2 and 5, namely Bikrampal Singh Bhatti, IPS, ASP City, Bathinda and ASI Pal Singh, Incharge P.P. Bus Stand, Bathinda was dismissed.

The complainants filed a revision petition and Iqbal Singh, accused No.1, who was summoned as accused abovesaid had also filed a revision petition before the Court of Sessions, which were marked to learned Additional Sessions Judge, Bathinda, who vide common judgment dated 17.11.2017 disposed of both the revision petitions, whereby allowing the revision petition filed by accused Iqbal Singh and dismissing the petition filed by complainants.

Feeling dissatisfied, the complainants/petitioners have

approached this Court by way of filing the present petitions.

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

The reasonings for passing of the impugned judgment has been given by learned Additional Sessions Judge, Bathinda in paras No.12 to 17, which are as under:

REGARDING REVISION FILED BY ACCUSED IQBAL SINGH

FILE No.1

The trial Court had summoned the present revisionist along with other accused under Sections 323, 324, 504, 506, 342 and 120-B IPC, whereas from a critical appraisal of the evidence led by the complainant the involvement of the present revisionist is not made out in the alleged crime. After having intimated the matter to the police, the revisionist had no authority or power upon the police officials to direct, monitor or channelize the investigation being carried out by them. The trial Court has not assigned any reasoning as to how the involvement of this revisionist was made out in the alleged offences. As such he was not liable to be summoned to stand trial in the present complaint. Resultantly, the trial Court order to this extent is liable to be set aside and is accordingly set aside

**REGARDING REVISION PETITION FILED BY
COMPLAINANTS**

FILE No.2

Heard on an application for condonation of delay of

455 days in filing the revision by the complainants.

The present revision is filed after a revision was filed by one of the summoned accused Iqbal Singh who was General Manager at the time of the theft and had intimated the matter to the police.

No cogent reason for condoning the delay of 455 days has been assigned by the revisionists/complainants. It was submitted that the delay was a result of misconception that the revision was to be filed before the Hon'ble High Court and as such the delay was caused by their counsel in the High Court. In this regard it is observed that neither the name of any counsel engaged by the revisionist in the High Court has been disclosed nor there is any proof that any revision against the impugned order was preferred in the Hon'ble High Court. The present revision is admittedly filed after receipt of notice of the connected revision by one of the summoned accused for 4.2.2017 which clearly shows that the complainants have filed this revision as a counter-blast to the aforesaid revision. The order impugned is dated 30.11.2015 whereas the revision is filed on 28.2.2017 and as such there is an unexplained delay of 455 days. The revisionists are being represented by counsel in the trial Court and there is no allegation against the said counsel that he did not inform the complainants about the procedure of filing the revision. The delay is thus not liable to be condoned on this ground.

However, since this is a revision whereby the indulgence of this Court is sought to examine the trial Court record in order to find out as to whether any illegality or perversity had crept into its proceedings, as such this Court has examined the revision of the revisionist on its merits as well and have gone through the trial Court record minutely including order impugned by the revisionists. It is submitted in the revision that accused number 2 had played a pivotal role in torturing the complainants at his behest and accused number 5 has framed incorrect DDR in order to save his fellow police officials. The impugned order is assailed on the ground that no reason was assigned by the learned trial Court while exonerating Bikrampal Singh Bhatti, ASP City, Bathinda accused number 2 and the trial Court has also failed to apply judicial mind while declining the summoning of ASI Pal Singh accused number 5.

In this regard it is observed that so far as ASI Pal Singh is concerned his involvement in the alleged offence of torture and confinement of the complainants is not established on record. There is nothing on the file to show that the said ASI Pal Singh had wrongly recorded the DDR in order to shield his fellow officers. Moreover, the involvement of the accused Bikramjit Singh Bhatti the then ASP in the alleged interrogation of the accused would not be established. The trial Court has given cogent reasoning

while declining the summoning of both these accused which do not lead to any illegality or perversity. As such it is observed that the trial Court order so far as it relates to dismissal of the complaint against both these accused i.e. Bikramjit Singh Bhatti accused number 2 and Pal Singh ASI accused number 5 is concerned the same does not suffer from any illegality or perversity. There is no allegation of any kind of torture or confinement by these two accused. Accordingly, the revision is liable to be dismissed and is ordered to be dismissed finding no merits in the same.

After hearing learned counsel for the petitioners and perusing the record, I do not find any merit in the petitions. Though learned trial Court had summoned Iqbal Singh the then General Manager, PRTC Depot, Bathinda as an accused but learned Additional Sessions Judge, Bathinda by a deep analysis of the matter and giving valid reasoning has found that his summoning was not called for.

Findings no merit in the petitions, the same stand dismissed.

(H.S.MADAAN)
JUDGE

3.4.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No