

CRM-M-13481 of 2015

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

CRM-M-13481 of 2015

Date of Decision: 23.10.2018

Bahadur Singh

....Petitioner

Versus

Jasvir Singh @ Jasbir Singh and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. Akashdeep Singh, Advocate, for the petitioner.

Mr. Kawaljyot Singh, Advocate, for respondent No.1.

Mr. Davinder Bir Singh, DAG, Punjab.

**RAMENDRA JAIN, J. (ORAL)**

Prayer in the instant petition under Section 482 Cr.P.C. has been made for quashing complaint No.215/1/2013 dated 19.01.2011 (Annexure P-6) under Sections 422, 427, 506, 148 and 149 IPC and summoning order dated 11.08.2014 (Annexure P-8) of learned Judicial Magistrate Ist Class, Jalandhar, on the ground that first complaint case filed by respondent No.1 on similar allegations, for the same occurrence and also against the same persons was dismissed by the learned Magistrate. Even FIR No.13 dated 24.01.2010 against four persons, in which petitioner was not named, on investigation, was found false. Therefore, on dismissal of complaint and finding the FIR false got registered by the respondent, his second complaint in the shape of protest petition is not maintainable and, thus, is liable to be quashed. Since complaint

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case is not maintainable, therefore, summoning of the petitioner, being illegal, is also liable to be quashed.

Learned counsel for the petitioner *inter alia* contends that initially the petitioner got lodged aforesaid FIR against four persons, in which petitioner was not named, which, on investigation, was found false. Simultaneously, respondent also filed a private complaint in Court attributing a lalkara to the petitioner, contrary to his version in FIR, which too was dismissed vide order dated 02.05.2013 (Annexure P-4) on merit. Therefore, subsequent complaint of the respondent in the shape of protest petition, after filing of cancellation report, ought not to have been entertained by the trial Court being not legally maintainable.

On the other hand, learned learned counsel for respondent No.1, vehemently opposing the above submissions, contends that earlier his complaint was not dismissed on merits, rather was dismissed on the ground that since FIR was also got registered by the respondent, therefore, two proceedings cannot run simultaneously. The revisional Court has granted liberty to the respondent to continue with his protest petition. Therefore, his subsequent complaint is well-maintainable.

Having given thoughtful consideration to the submissions made by learned counsel for both the sides, this Court finds that instant petition merits acceptance for the reasons to follow.

Initially, registering FIR No.13 dated 24.01.2010 under

Sections 458, 427, 506, 148 and 149 IPC against four persons, not

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arraying the petitioner as accused and not attributing any role to him and then after six months filing a complaint on the similar allegations against those four persons against whom FIR was registered and attributing role to the petitioner of lalkara during subsistence of FIR, is a gross abuse of process of law by the respondent.

Earlier complaint of the respondent was not dismissed primarily on the ground that an FIR also lodged by him was pending and cancellation report has been filed therein, rather was dismissed on merits. Relevant portion of order dated 02.05.2013 of the learned Judicial Magistrate Ist Class, Jalandhar, of dismissal of aforesaid complaint is reproduced hereunder: -

*“.....In the present complaint the complainant has also not placed any cogent and convincing evidence to show a prima facie case against the accused. Therefore, I do not find any merit in the present complaint. Hence, it is dismissed u/s 203 Cr.P.C. File be consigned to the Record Room, Jalandhar.”*

Respondent filed revision against order dated 02.05.2013 (Annexure P-4), dismissing his complaint, which was withdrawn during the pendency of this petition with liberty to pursue his protest petition. In the protest petition also, respondent concealed the factum of dismissal of his earlier complaint on similar allegations. Even in his deposition in support of his protest petition, respondent did not disclose about the dismissal of his earlier complaint.

In the FIR, respondent did not raise any grouse against the

petitioner nor levelled any allegations of any nature, but in his initial

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complaint and then in his statement he levelled allegation of raising lalkara to the petitioner, which was completely a new fact and contrary to his version in the FIR. Therefore, very intention of the respondent was not honest, rather he was maliciously trying his level best to prosecute the petitioner.

Since earlier complaint of the respondent has been dismissed on merits and FIR lodged by him has been found false, therefore, protest petition of the respondent, which has now been treated as a complaint, is not legally maintainable. Therefore, is liable to be dismissed. Since complaint is not maintainable, therefore, impugned summoning order dated 11.08.2014 (Annexure P-8) is also liable to be quashed.

In view of discussion made above, petition is allowed. Impugned complaint (Annexure P-6) qua petitioner and summoning order (Annexure P-8) are quashed. Since respondent No.1 has grossly abused the process of law, therefore, he is burdened with exemplary cost of ₹50,000/- to be paid to the petitioner.

Member Secretary, District Legal Services Authority, Jalandhar, is directed to recover the said cost from the petitioner by adopting all means. A copy of this judgment be sent to him for compliance.

**(Ramendra Jain)**  
**Judge**

**October 23, 2018**  
R.S.

Whether speaking/reasoned                      Yes/No

Whether Reportable                                      Yes/No