

258

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.17849 of 2017 (O&M)
Date of Decision: 07.03.2018

Amritpal Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Surinder Garg, Advocate,
for the petitioners.

Mr. Luvinder Sofat, A.A.G., Punjab,
for respondent No.1.

Mr. Kashmir Singh, Advocate,
for respondent No.2.

SUDIP AHLUWALIA, J. (ORAL)

In the present petition, the petitioners seek quashing of F.I.R. No.93, dated 29.11.2016, under Sections 353, 186, 341, 332, 506 and 148 of the Indian Penal Code, registered at Police Station Kot Dharmu, District Mansa (Annexure P-1), at the instance of respondent No.2/complainant, who at the relevant time was working as Beldar with Irrigation Department, Irrigation Branch, Jawaharke, District Mansa (Punjab). It was alleged that when the complainant had been directed to proceed to Village Gharangna to look after a breach in the Canal, which had taken place there, he was

surrounded by the petitioners and threatened with death apart from being assaulted. He, thereafter told the petitioners that he had come there on Official business, after which they threatened him against disclosing the fact of his having been assaulted to anyone else. Consequently on his Report, the F.I.R. was drawn up under Sections 353, 186, 341, 332, 506 and 148 of the Indian Penal Code.

The petitioners have relied upon the decision of the Division Bench in **CRM-M No.31765 of 2012** titled **“Vinod @ Boda and others Vs. State of Haryana and another”** decided on 01.05.2013, wherein it was held, *inter alia*:-

“In the present case, merely because the complainant was working as a teacher and injuries were caused to him while he was on duty at School, learned Single Judge has treated it to be a case of an offence against the 'society' observing that public servant has been prohibited from performing his duties, the proceedings cannot be quashed. Whereas, in the facts and circumstances of the case, the dispute was prima facie between the parties in their individual and private capacity. Therefore, even on merit, the present is a fit case where the ends of justice demand quashing of proceedings as the dispute has been settled amicably and this would bring harmony between the parties.

Moreover, in this case, the parties have already appeared before the Trial Court and the Trial

Court has authenticated the compromise on the basis of the statements of the parties made before it.

For the reasons stated above, it is held that in view of settled law, as discussed above, the powers of High Court under Section 482 CrPC are wide enough, though to be exercised sparingly and judiciously, and this Court can quash criminal proceedings in the peculiar facts of the case even where offence is against public servant.”

Ld. State Counsel has opposed quashing of the proceedings in F.I.R. (Annexure P-1) by submitting that the facts in the present case are distinguishable from those mentioned in the aforesaid Division Bench decision. It has been highlighted that in their statements noted in the Compromise Memo/Documents (Annexure P-2), the petitioners had admitted that on 23.11.2016, they had misbehaved with the complainant on account of the fact that he was late in arriving at the spot for rectifying the Canal breach, which had resulted in destruction of their crops, thereby implying that they were aware of his Official identity.

It needs to be remembered, however, that the underlying requirement to constitute the offences either under Sections 186, 332 or even Section 353 of the Indian Penal Code happens to be the 'intention to deter' the Public Servant from discharging his Official duties.

In the present case, however, the anger of the petitioners was on account of the fact that the complainant had failed to discharge his Official duties in time by reaching the spot late. As such their aggression

and hostility towards the complainant was clearly the outcome of such anger on account of the delay, which had resulted in damage to their crops. But it would be too farfetched to infer that by behaving in such manner, their actual intention could have been to 'deter or prevent' the complainant from performing his duties, in which case the logical consequence could only have been further damage to the crops/locality, or the intention of the petitioners could have been to get such further destruction to be caused by consciously preventing the complainant from doing his work.

In the opinion of this Court, therefore, this is a fit case to be covered by the *lis* of **Vinod @ Boda's case (supra)**, particularly considering that statements of the parties including the complainant having already been recorded as regards genuineness of the compromise as duly certified by the Ld. Judicial Magistrate Ist Class, Mansa.

Consequently, the present petition is allowed and all the proceedings arising out of F.I.R. No.93, dated 29.11.2016, under Sections 353, 186, 341, 332, 506 and 148 of the Indian Penal Code, registered at Police Station Kot Dharmu, District Mansa (Annexure P-1), are ordered to be quashed forthwith qua the present petitioners.

07.03.2018

Apurva

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No