

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

**CRM-M-23417-2018 (O&M)
Date of Decision: 6.7.2018**

Anwar Hussain and others

.....PETITIONER(s).

VERSUS

State of Haryana and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Krishan Singh, Advocate
for the petitioners.

RAJ SHEKHAR ATTRI, J.(Oral)

This is a petition under Section 482 of Code of Criminal Procedure for quashing criminal complaint No.256/1 dated 22.8.2013 filed by respondent No.2 for offence punishable under Sections 323, 504, 506, 148, 149 Indian Penal Code, Police Station Farakpur, District Yamuna Nagar (Annexure P-1) as well as summoning order dated 12.10.2015 passed by learned Judicial Magistrate, 1st Class, Yamuna Nagar at Jagadhri (Annexure P-2).

A criminal complaint has been filed against seven persons i.e. the petitioners and ASI Ved Pal of Police Station Farakpur, District Yamuna Nagar on the allegations levelled in para 4 of the complaint which are reproduced hereunder : -

“That on 26.4.2013 at 2:00 p.m., the complainant along with her husband Chohal Ram was going on motor cycle from

main road towards their house through street. At that time, all the accused having formed an unlawful assembly and armed with deadly weapons like lathies and Dandas came there and stopped the motor cycle and all of them started the motor cycle and all of them started beating the complainant and her husband. The accused No.2 to 7 raised a Lalkara that complainant and her husband be taught a lesson for trying to get the shop vacated from the accused no.1. The accused no.7 who is ASI caught hold of the complainant and gave fist and slap blows to her by dragging her. The other accused caught hold of the husband of the complainant and gave beatings to him with Dandas and lathies. On hearing noise, one Ramesh Kumar son of Mam Chand resident of 899, Ram Nagar, Yamuna Nagar and Suraj Mani son of Girdhari Lal, resident of 98, Raja Garden Colony, Yamuna Nagar came to the spot along with several other persons. They tried to intervene but the accused no.7 along with other co-accused forcibly took the complainant and her husband to police station by dragging them. There, the accused no.7 in connivance with other co accused lodged a false FIR no.146 dated 23.4.2013, under Section 148, 149, 323, 427, 448, 506 IPC against the complainant, her husband, son and other family members. The complainant was allowed to go and was asked to come on 27.4.2013 in police station, otherwise she will be brought to police station by dragging her. The

husband of the complainant was put in the police lock up.

The complainant and other family members were arrested and they were released on bail by the Court.”

However, qua Ved Pal, complaint was dismissed solely on the ground that he was discharging his official duties, so no *prima facie* case is made out against him.

Learned counsel for the petitioners is seeking quashing of the complaint on the ground that earlier an FIR was registered against the complainant and the present complaint was filed much after lodging of the FIR.

I have heard learned counsel for the petitioners and gone through the record.

So far as the petitioners are concerned, *prima facie* case is made out against them with regard to offences punishable under Sections 323, 504, 506, 148, 149 IPC. They have been attributed specific injuries and vital roles.

The Hon'ble Supreme Court in **State of Haryana and others v. Ch. Bhajan Lal and Ors.**, 1992 AIR (SC) 604 has made the following observations:-

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above,

we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Whether the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose

the commission of any offence and make out a case against the accused.

4. Whether, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an

ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

No case is made out for quashing the aforesaid complaint qua petitioners No.1 to 6, as such, the present petition stands dismissed.

However, this Court has observed that ASI Ved Pal has personally beaten the complainant by entering into later's house. This is not part of his official duties.

In this view of the matter, this Court takes suo motu cognizance and treat it revision petition against ASI Ved Pal. Let notice be given to ASI Ved Pal, Police Station Farakpur, District Yamuna Nagar as well as to the complainant for 4.10.2018.

Photocopy of the record of the court below be also summoned for the adjourned date.

(RAJ SHEKHAR ATTRI)
JUDGE

July 6, 2018
Paritosh Kumar

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>