

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29851-2018 (O&M)

Date of Decision:- 19.7.2018

Varinder Singh Bawa

... Petitioner

Versus

Anguri Devi

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ranjan Lakhanpal, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

Learned counsel for the petitioner seeks quashing of complaint No.COMI-41-2017 dated 31.5.2017 (Annexure P-1) under Sections 323, 452, 427, 504, 506 IPC as well as summoning order dated 16.1.2018 (Annexure P-2). It may here by mentioned that name of the petitioner has however been mentioned incorrectly in the memo of parties as he is in fact named as Gurwinder Singh, as per the complaint.

The facts, in nutshell, are that the complaint was filed by Anguri Devi wherein it was alleged that on 10.5.2017 when the complainant along with her grand-son were present in the house, then accused Surinder Kumar and Gurwinder Singh, accompanied by SHO Kanwaljeet Singh along with other police officials entered her house and took her as well as her grand-son to the street and slapped them. Thereafter accused Surinder Kumar and Gurwinder Singh forcibly dismantled the platform with the help of 'sabbals'

on instigation of accused SHO Kanwaljeet Singh. It is further alleged that the grand-son of the complainant was also taken into illegal custody and it was only in the evening that he was released. The complainant in support of her case, herself stepped into the witness box and also examined Vishal Kumar and Harinder Singh Brar and also led the documentary evidence in the shape of photographs. The learned trial Court vide impugned order dated 16.1.2018 formed an opinion that there were sufficient grounds to proceed against the accused persons and consequently summoned the accused.

Learned counsel for the petitioner while assailing the complaint as well as the summoning order has submitted that a false complaint had been filed against the petitioner and other co-accused and that in fact it was in May, 2017 when the Municipal Committee had itself removed the unauthorized construction/obstruction, raised by the complainant in the street. The learned counsel in this context has drawn the attention of this Court to letter dated 26.3.2018 (Annexure P-14) written by the Executive Officer, Nagar Council Rampura, Phul to the Director, Local Government Department, Punjab, Chandigarh wherein it is mentioned that Nagar Council, Rampura, Phul had removed the illegal construction in May, 2017.

The learned counsel has further submitted that in fact the petitioner was not present at the place of occurrence on the day when the offences are alleged to have been committed and that the conversation as contained in the compact disk (Annexure P-21) shows that the petitioner was not present at the spot.

Having regard to the facts and circumstances of the case and having heard learned counsel for the petitioner, this Court does not find any reason to interfere with summoning order dated 16.1.2018 (Annexure P-2) or to quash the complaint as not only does the complaint discloses commission of offences in question but the preliminary evidence led by complainant *prima-facie* substantiates the allegations so as to justify summoning of accused. The plea of alibi would be a matter of defence to be considered by learned trial Court at appropriate stage. There is no merit in the petition and the same is hereby dismissed.

It is however made clear that the petitioner would be at liberty to raise all the points raised herein so as to seek his discharge before the learned trial court, at appropriate stage.

July 19, 2018

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No