

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

CRM-M-31144-2017

Date of decision:-14.5.2018

Pippal Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

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

Present : Mr.S.P.S. Sidhu, Advocate
for the petitioners.

Ms.Ruchika Sabharwal, AAG, Punjab.

Mr.O.P. Kamboj, Advocate
for respondent No.2.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioners Pippal Singh and others for quashing of order dated 26.7.2017 passed by learned Additional Sessions Judge, Ferozepur vide which revision petition filed by Balwinder Singh (respondent No.2 in this petition) has been accepted in the complaint case.

Inter alia, in the petition, it is contended that Balwinder Singh – respondent No.2 along with his son Kuldeep Singh had caused injuries to petitioner No.1 – Pippal Singh and one Jarmal Singh on 11.5.2013 regarding which an FIR No.84 dated 13.5.2013 for the offences under Sections 326, 324, 323, 34 IPC was registered at Police

Station Zira, District Ferozepur; that after four days of the occurrence respondent No.2 – Balwinder Singh got registered cross case vide DDR No.35 dated 15.5.2013, under Sections 336, 324, 323, 295-A, 34 IPC alleging that on 11.5.2013 at about 7:00 a.m., while Balwinder Singh was cutting fodder from his fields then Pippal Singh armed with a dang, his son Gurbhej Singh armed with a 12 bore double barrel gun, his another son Bachittar Singh armed with a gandasa came there raising lalkaras and Pippal Singh gave an exhortation that Balwinder Singh be taught a lesson for demanding money, then Gurbhej Singh aimed his 12 bore gun towards Balwinder Singh and Balwinder Singh started running, then Gurbhej Singh fired a shot aimed at complainant and the pellets hit him on his back and he fell down, then Bachittar Singh gave a gandasi blow to the complainant hitting him on left ear, thereafter Pippal Singh gave a dang blow to the complainant hitting him in the middle of his head, Bachittar Singh gave a gandasa blow from its reverse side, which hit the complainant on his left wrist; that on alarm being raised and on arrival of Kuldeep Singh at the spot, the assailants ran away along with their respective weapons. The motive for the incident was that Joginder Singh, a younger brother of the complainant – Balwinder Singh (respondent No.2) was not having cordial relations with their father. Thus, their father had executed a Will in favour of Pippal Singh and Bohar Singh, who had sold the land to Veerpal Kaur receiving money from her. According to Balwinder Singh, he was demanding share in the money due to which the assailants had caused injuries to him and also pulled his hair and beard.

According to the petitioners, this version set up by

respondent No.2 – Balwinder Singh was found to be false during investigation and it came out that in fact he had fabricated the injuries just to involve the petitioners in the present case to pressurise them for compromise; that no action had been taken by the police and hence he (respondent No.2) filed a private complaint before the Magistrate; that the learned Magistrate had dismissed the complaint qua accused, namely, Jarmal Singh, Joginder Singh and Virpal Kaur, whereas accused Pippal Singh, Gurbhej Singh, Bachittar Singh and Gurcharan Singh were ordered to be summoned for the offences under Sections 324, 323, 506 read with Section 34 IPC. According to the petitioners being aggrieved by this Court, respondent No.2 – Balwinder Singh had filed a revision petition before the Court of Sessions, which was assigned to learned Additional Sessions Judge, Ferozepur, who gave observations that all the accused are liable to be summoned under Section 307 IPC and other relevant provisions, remanding the case back to Magistrate, which left the petitioners aggrieved and they have filed the present revision petition.

Notice of the petition was given to respondents, who put in appearance through counsel.

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

During the course of hearing, learned counsel for the complainant has informed that in terms of the directions issued by learned Additional Sessions Judge, Ferozepur, the trial Magistrate has passed a fresh summoning order; the additional accused have put in appearance and the case has been committed to the Court of Sessions

and now the trial is pending there, as such, the present petition has become infructuous.

Whereas, learned counsel for the petitioners has contended that it is not so and this Court has got every power to quash the order passed by learned Additional Sessions Judge, Ferozepur along with the ancillary proceedings. Learned counsel for the petitioners has relied upon *M/s Pepsi Foods Ltd. Versus Special Judicial Magistrate, 1997(4) R.C.R.(Criminal) 761* contending that the order passed by the Magistrate summoning an accused should show due application of mind and the order is not to be passed in a mechanical manner.

However, I find that vide impugned order, learned Additional Sessions Judge, Ferozepur while referring to the evidence available on record had set aside the order passed by the trial Magistrate directing him to reconsider the matter in light of oral as well as documentary evidence led by the complainant and pass a fresh order of summoning against the respondents and proceed in accordance with law. In response thereto, the trial Magistrate is said to have passed a fresh order and the case has since been committed and the accused are facing trial before the Court of Sessions. I do not see any illegality or infirmity with the impugned order, which might have called for interference by this Court while exercising jurisdiction under Section 482 Cr.P.C.

Finding no merits in the petition, the same stands dismissed.

(H.S.MADAAN)
JUDGE

14.5.2018

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No