

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34607-2013 (O&M)
Date of Decision:-21.05.2018.

Gurmeet Singh and others

.....Petitioners

Versus

Darshan Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Ms. Dhriti J. Sharma, Advocate for the petitioners.

Mr. D.S. Khurana, Advocate for respondent No.1.

Mr. A.A. Pathak, Additional A.G. Punjab for
respondent No.2.

P.B. BAJANTHRI, J. (Oral)

Present petition is filed by the following persons:-

- (1.) Gurmeet Singh S/o Sh. Bishan Singh
- (2.) Jangir singh S/o Sh. Bishan Singh
- (3.) Manjit Singh S/o Sh. Gurmeet Singh
- (4.) Gurcharan Singh s/o Sh. Bishan Singh
- (5.) Seema Rani W/o Sh. Gurcharan Singh.

2.) There were altercations between the petitioners and complainant on 17.06.2007, petitioners attacked the complainant with *dang* and *kappa* while hurting the complainant on his right shoulder and left arm by Jangir Singh and Paramjeet Singh. One Gurmeet Singh is stated to have said that he should be taught lesson for cultivating the land more than his share. A complaint was filed on 18.06.2007 for the alleged occurrence.

Thereafter, on 11.07.2007 FIR No.163 was registered at Police Station Sadar Jalalabad for the offences punishable under Sections 323/324/326/34 IPC. After investigation, police filed cancellation report on 07.08.2007 on which complainant not filed his objection on the score that he was pursuing his separate complaint. To that effect an order has been passed on 22.07.2015 by Sh. Harpreet Singh, PCS JMIC, Jalalabad and it was ordered that in view of the summoning of the accused in the private complaint of the complainant present cancellation report is accepted. At this juncture, petitioners presented this petition challenging the quashing of the complaint dated 09.07.2007 and summoning order dated 17.10.2012 on the score that cancellation report has been accepted.

3.) Learned counsel for respondent No.1 submitted that cancellation report has been accepted on 22.7.2015 with a rider that complainant would pursue the complaint read with the summoning of the accused in the private complaint.

4.) Heard the learned counsel for the parties.

5.) Perusal of the complaint, it is evident that except Jangir Singh and Paramjit Singh and others have been involved unnecessarily because there is no attribution to them. Of course, one Gurmeet Singh is stated to have threat on the alleged incident to the extent that complainant should be taught a lesson for cultivating the land more than his share. In the complaint, there are no allegations against Gurcharan Singh and Seema Rani.

6.) As invoking Section 148 read with Section 149 IPC by the Magistrate is totally unjustified because there is no averments in the complainant made to the police regarding constituting of unlawful assembly

and offence committed by the accused/petitioner. First original statement made before the police does not disclose about this fact, that is why Section 148/149 not included by the police in FIR in first hand. In the complaint, all these are only afterthought. There is no specific attribution to the petitioners except Jangir Singh and Manjit Singh. In view of these facts and circumstances read with the fact that cancellation report is accepted with rider, it is evident that there were no allegations against Gurmeet Singh, Manjit Singh, Gurcharan Singh and Seema Rani. Therefore, complaint dated 09.07.2007 and summoning order dated 17.10.2012, Annexures P-1 and P-6, respectively are set aside insofar as Gurmeet Singh, Gurcharan Singh and Seema Rani, whereas, complaint and summoning order would sustain in respect of Jangir Singh who is one of the petitioner and so also Manjit Singh (stated to be Paramjeet Singh).

7.) Petition stands allowed in part.

(P.B. BAJANTHRI)
JUDGE

May 21, 2018.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.