

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43209-2015

Date of Decision: 10.05.2018

Rachhpal Singh and others

.....Petitioners

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vipin Mahajan, Advocate,
for the petitioners.

Mr. J.S. Walia, Sr. D.A.G., Punjab.

Mr. D.S. Kahlon, Advocate,
for respondent no. 2.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioners seek quashing of FIR No. 9 dated 03.03.2015, registered at Police Station Taragarh, District Pathankot, alleging therein the commission of offences punishable under Sections 326, 324, 323, 148 and 149 IPC, on the ground that though as per the FIR all the petitioners are stated to have attacked the complainant, i.e. respondent no. 2 herein Sarishta Devi, leading to her having received one sickle blow on the little finger of her left hand (attributed to petitioner no. 5 Ashish Singh @ Ashu), with one fist blow also received on her neck (attributed to petitioner no. 3 Ram Singh) and one 'foot blow' on the wrist of her right hand (attributed to petitioner no. 1 Rachhpal Singh), and one fist blow on her head (attributed to

petitioner no. 2 Kailasho Devi), even the MLR, Annexure P-2, shows only one incised wound measuring 3 c.m. x 0.25 c.m., over the little finger of the left hand at its base, with what is described as “injuries no. 2 to 4”, being complaints of pain over the neck, hand and another part of the body, such description being illegible.

As regards all these three complaints, no external injury is shown to be present, as per the said MLR.

An opinion of doctors of the Board headed by Dr. Sharin Dhiman, has also been annexed as Annexure P-2/A, stating that injury no. 1 was declared to be grievous after receiving the X-ray film but the possibility of it being self inflicted or by a friendly hand could not be ruled out, as it was on a non-vital and accessible part of the body.

Learned counsel for the petitioners submits that as a matter of fact the genesis of the dispute is actually a land dispute in which, in fact, the suit for permanent injunction filed by respondent no. 2, Sarishta Devi, has been dismissed by the learned Civil Judge, Junior Division, Pathankot, vide his judgment dated 28.11.2014 (a copy of which has been annexed as Annexure P-7 with the petition).

He further submits that petitioners no. 2 and 4 and another sister of theirs, Kaushalya Devi, also got registered an FIR against respondent no. 2 Sarishta Devi, on 17.09.2014, at the same police station, alleging therein the commission of offences punishable under Sections 415, 417, 419, 420, 467, 468 and 471 IPC, which is still stated to be pending. That is what, therefore, led to the FIR registered at the instance of Sarishta Devi against the petitioners, about 5½ months later.

Learned counsel for the State while referring to the reply filed by

the Deputy Superintendent of Police (Rural), Pathankot, submits that the investigation having been carried out by the Superintendent of Police (Investigation), Pathankot, a copy of the report being annexed as Annexure R-1/T with the said reply, a perusal thereof shows that the matter was thoroughly enquired into and the FIR was found to be correctly registered against the petitioners.

Learned counsel for respondent no. 2 also reiterates the same and further submits that though learned counsel for the petitioners had also argued that petitioners no. 3 and 4, i.e. Ram Singh and Kamlesh Devi, are not residents of District Pathankot but of District Kangra (H.P.) and District Kathua (J & K), both the districts are absolutely adjoining district Pathankot, and therefore their presence at the place of occurrence is not surprising at all.

He further submits that the charges already having been framed against all the petitioners, this Court would not interfere at this stage, to quash the FIR.

Having considered the aforesaid contentions, firstly it is to be seen that at the time when notice was issued in this petition on 11.02.2016 (by a co-ordinate Bench), after noticing the contention raised at that stage by learned counsel for the petitioners, it was observed that if charges are framed in the meanwhile, it would be subject to the final outcome of the petition.

That being so and it also being seen that initially the DSP (Investigation) had investigated the matter and had actually found the FIR to be falsely registered, as stated in paragraph 08 of the reply of the DSP, though eventually a report under Section 173 Cr.P.C. was submitted to the competent Court on the basis of the fact that an officer more senior in rank had thereafter enquired into the matter and had found the FIR to be correctly registered, in

my opinion, the FIR at least qua petitioners no. 1 to 4, deserves to be quashed; because despite the contention that fist blow and kick blows were received by the complainant, even the MLR does not show any mark of an external injury at all on the person of the complainant, as already noticed hereinabove.

Learned counsel for the complainant however submits that even the petitioners' presence having been established at the time when petitioner no. 5 is stated to have (as per the FIR) inflicted a sickle blow on the little finger of the complainant, their complicity is very much evident.

Having considered even that argument, in my opinion, for the reasons already stated hereinabove, that firstly, the FIR itself was considered on first enquiry to have been falsely registered, further read with the MLR, as also the circumstances of the suit of respondent no.2 having been dismissed, and an FIR having earlier been registered against Sarishta Devi, the contention has to be rejected for the reasons already given hereinbefore, even though learned counsel for respondent no. 2-complainant would not otherwise be wrong on the count that, of course, persons from adjoining districts (or anywhere else for that matter), can obviously be present at any place of occurrence.

Consequently, the petition is allowed to the extent that FIR No. 9 dated 03.03.2015, registered at Police Station City, Taragarh, District Pathankot, alleging therein the commission of offences punishable under Sections 326, 324, 323, 148 and 149 IPC, is hereby quashed qua petitioners no. 1 to 4 only, as are all consequential proceedings arising out of it, including the charges framed against the said petitioners, with the trial, however, to go on against petitioner no. 5 Ashish Singh @ Ashu, one grievous injury alleged to have been inflicted by him on the complainant Sarishta Devi. The trial Court

would obviously look at that allegation against the said petitioner, wholly on the basis of evidence led before it, regardless of any observation made in that context by this Court in this order.

May 10, 2018
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes