

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

CRM-M-48632-2017

Date of decision:-30.1.2018

Balkar Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

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

Present : Mr.Saurabh Bajaj, Advocate
for the petitioners.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. for quashing of cross case dated 28.11.2013, under Sections 148, 149, 323, 325, 326, 285 and 506 IPC and Section 25 of Arms Act in FIR No.219 dated 19.6.2013, under Sections 148, 149, 323, 342, 427 and 506 IPC as well as Section 25 of the Arms Act and quashing of the charges and ancillary proceedings, has been filed by petitioners, Balkar Singh, Pargat Singh, Rajinder Singh, Hari Singh, Anosh Singh and Harvinder Singh in that cross case.

Briefly stated, the facts of the case as can be gathered from the assertions in the petition are that FIR No.219 dated 19.6.2013 detailed above was lodged at the instance of petitioner No.1 – Balkar

Singh against Nervair Singh son of Joginder Singh, resident of village Gonder, District Karnal (respondent No.4) and others accused since the latter while armed with deadly weapons had tried to kill the petitioners and take forcible possession of the land from them, which petitioner No.1 had got after 50 years of civil litigation; that despite the fact that firearms were used in the incident, the investigating agency had not added Section 307 IPC in the FIR; that the petitioners had moved an application before Illaqa Magistrate, Karnal for their fresh medico legal examination by Board of directors and on directions issued vide order dated 15.6.2013 passed by Judicial Magistrate Ist Class, Karnal, they were medico legally examined, which revealed that Hari Singh, Rajinder Singh and Azadwinder Singh had suffered bullet injuries, which were dangerous to life; that as the investigating agency was conniving with the accused party, the petitioner No.1 had filed CRM-M-16989-2013 before this Court with a prayer that investigation be transferred to some other investigating agency or necessary action be taken against the accused; that on that petition, this Court had passed order dated 19.8.2013 vide which the Superintendent of Police, Karnal was directed to file his personal affidavit and to look into the matter; that the present complainant of cross case against the petitioner was arrayed as respondent No.7 in the said petition filed by petitioner No.1, who was also served; that the information regarding passing of order passed by this Court had reached the investigating agency and on advise of the official respondents of the investigating agency and with an intention to mislead this Court by concealing the order passed by this Court, CRM-M-29937-2013 was filed by respondent No.4; that if this Court was

aware of the previous petition, then no such directions would have been passed as had been done on 10.9.2013 for registration of cross case against the petitioners. The cross case against the petitioners was registered on 28.11.2013 by concealing true and material facts from the Court; that the accused have also manipulated the MLRs in connivance with Dr.Navdeep Kaur, who is close to respondent No.4, otherwise at first instance, the report of respondent No.1 was normal; that the cross case is counter-blast to the FIR against respondent No.4 and others and is outcome of concealments and not less than fraud, therefore cross case deserves to be quashed; that the petitioner had filed CRM-M-31421 of 2014 praying for quashing of cross case dated 28.11.2013 against petitioner, wherein respondent gave a wrong statement that Section 307 IPC had been added wherein it had been so done against respondent No.4 and not the petitioner; that petition was dismissed by this Court vide order dated 18.1.2016 for want of prosecution; that the petitioner had moved an application for recalling of that order which was ultimately withdrawn, however, this Court had given an opportunity to the petitioner to file fresh petition for the same relief, therefore the petition be allowed.

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

FIR/cross version can be quashed only if the same does not disclose commission of any offence or is result of abuse of process of law. Here I find that none of the ground is there. In the cross version names of all the petitioners as assailants find mention and specific allegations have been levelled against them. Harvinder Singh is said to

have given a sword blow aiming it on head of complainant in the cross version who while saving himself received blow on left arm whereas Hari Singh, Pargat Singh and Rajinder Singh are said to have given beatings with sticks and Anosh Singh with lathi to complainant. Sahab Singh and Gurdeep Singh who were said to have arrived at the spot were allegedly attacked upon by Balkar Singh and other assailants, in the process Gurdeep Singh and Sahab Singh received injuries. After completion of investigation and other formalities, the accused were said to have been challaned and formally charged. Their guilt shall be determined during the trial. They are basically aggrieved by the fact that respondent No.4 had filed a petition before this Court concealing the fact of petition already having been filed by petitioner Balkar Singh and the investigating agency siding with him. May it be so but then that does not provide any ground for quashing of cross case though the same may be of some help to the petitioners during the trial.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

30.1.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No