

122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50722-2018

Date of decision: November 21, 2018

Bikramjit Singh @ Bikka and others

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Inder Pal Singh, Advocate
for the petitioners.

RAJ SHEKHAR ATTRI, J.(ORAL)

Petitioners are seeking quashing of FIR No.53 dated 12.09.2015, under Sections 323, 326, 506, 148 and 149 of the Indian Penal Code registered at Police Station Srai Amant Khan, District Tarn Taran along with all subsequent proceedings arising therefrom on the basis of compromise dated 01.10.2015 (Annexure P-2).

FIR has been registered on the allegations that after investigation, petitioner was found innocent but learned Magistrate did not agree with the cancellation report and ordered investigation twice.

A bare perusal of the FIR transpires that petitioners participated in the attack on the victim on 11th September, 2015. It is specifically stated that Palwinder Singh and Kamaldeep Singh @ Sonu raised *lalkara* to teach the complainant party a lesson then Bika Singh @ Bikramjit Singh son of Dr. Sukhwinder Singh, Satwinder Singh @ Nanu son of Kulwinder Singh, Jatt, resident of Dhand have hold the complainant and abovesaid Sandeep Singh son of Jagga Singh has attacked with his kirpan on his brother Hardev Singh @ Vijay which has hit on his left wrist and Simran Singh @ Seema

has gave him fists blows and Bika and Satwinder Singh had also given fist blow and threatened the victim with dire consequences.

A bare perusal of the record transpires that a *prima facie* case is made out against the petitioners.

The Hon'ble Supreme Court in *State of Haryana and others versus Ch. Bhajan Lal and others*, 1992 AIR (Supreme Court) 604, has made the following observations:-

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Whether the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the

same do not disclose the commission of any offence and make out a case against the accused.

4. Whether, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

No case is made out for interference by this court.

Dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

November 21, 2018

m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No