

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

CRM-M-7477-2017

Date of decision:-22.2.2018

Bhanwar Lal

...Petitioner

Versus

Ajay Kumar and others

...Respondents

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

Present : Mr.N.S. Shekhawat, Advocate
for the petitioner.

H.S. MADAAN, J.

By way of moving the present petition under Section 482 Cr.P.C., the petitioner – Bhanwar Lal seeks quashing of the judgment dated 9.11.2016 passed by learned Additional Sessions Judge, Gurgaon vide which the revision petition filed against the summoning order dated 9.11.2015 passed by Judicial Magistrate Ist Class, Gurgaon was accepted.

Complainant Bhanwar Lal had brought a criminal complaint against Ajay Kumar, Devender, Madhusudan, Anuj Kumar, Naveen, Bharat Bhushan, Shyam Lal, Vikram, Shiv Hari, Sunil Kumar, Yogesh, Pradeep, Harish, Sanjay, Smt.Prakash, Smt.Sunita and Rajesh, all belonging to his village Sadhrana under Sections 323, 506, 148, 149, 34 IPC on the allegations that on 18.6.2011 at about 8:00 a.m. when

Sonu son of Paras Ram was going on duty and had reached near the house of Shyam Lal, then accused Madhusudan started abusing him saying as to why he was passing through the vacant plot; that Madhusudan and Shyam Lal started quarrelling and beating him; that on hearing the noise, all the accused reached the spot armed with lathis and dandas and attacked Sonu, his uncle Rohtash, Suraj, Kabir, Manoj, Ram Niwas and Kamlesh; that Madhusudan and Shyam Lal gave beatings to Sonu; that accused Ajay and Shiv Hari caught hold of Rohtash and were taking him towards Ajay's house; that accused Anuj gave a lathi blow on the head of Suraj; that accused Shiv Hari caught hold of Kabir and accused Ajay gave a lathi blow on his head; that accused Sanjay gave a danda blow on his right hip; that accused Vikram gave a danda blow on the head of Ram Niwas; that accused Pradeep gave a lathi blow on his right shoulder, accused Rajpal gave a danda blow on the dorsum aspect of right hand of Smt.Kamlesh, accused Madhusudan gave a danda blow on the dorsum aspect of left hand of complainant, accused Bharat Bhushan gave a farsa blow but Manoj escaped and tried to run away; that when several persons gathered at the spot, the assailants fled away while giving threats.

After recording preliminary evidence, Judicial Magistrate Ist Class, Gurgaon vide order dated 9.11.2015 summoned all the accused for the offences under Sections 323, 506, 148, 149 IPC. The accused had challenged the summoning order by way of filing the revision petition, which was accepted by learned Additional Sessions Judge, Gurgaon vide judgment dated 9.11.2016, which left the complainant aggrieved and he has has approached this Court by way of

the present petition.

I have heard learned counsel for the petitioner besides going through the record and I do not find any merit in the petition. The impugned judgment passed by learned Additional Sessions Judge, Gurgaon is well reasoned one. It has been observed by learned Additional Sessions Judge, Gurgaon that it is an admitted fact that criminal case regarding the same occurrence is pending against the complainant and others, which was got registered by revisionist accused and it is further not in dispute that earlier two complaints titled 'Saryu Versus Ajay Kumar' and 'Sonu Versus Ajay Kumar' were filed against the revisionists/accused regarding the same occurrence, which were dismissed vide order dated 9.1.2013 and those complaints were filed through the counsel, who had filed the present complaint. The factum of filing of those two complaints has not been mentioned in the complaint in hand. It has been further observed that though the complainants in both the complaints were different but they are accused in the State case lodged by the revisionists/accused, therefore, it could not be said that those facts regarding filing of previous complaints by other accused were not in the knowledge of such complainants particularly when they had got filed the complaints through the same counsel. In that way, the complainant had concealed material facts and has not approached the Court with clean hands. Discussing the case law, learned Additional Sessions Judge, Gurgaon has found that a second petition on the same facts regarding the same incident was not maintainable.

The second ground for which the order passed by trial Magistrate was set aside was that the learned Magistrate was not taken

into consideration the gross delay in filing of the complaint as the date of occurrence was 17.6.2011, whereas the complaint was filed on 7.10.2013 i.e. after about one year, three months and twenty days without any reasonable or plausible reason being their explaining the delay. The conduct of the complainant shows that the complaint had been filed as a counter-blast to the State case pending against him and the other accused.

In the present case, I do not find any such illegality or infirmity with the impugned order much less apparent on the face of it. The order is certainly not in violation of settled principles of criminal jurisprudence. I do not see any reason to upset the impugned order while exercising powers under Section 482 Cr.P.C.

The petition being without merit stands dismissed accordingly.

22.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No