

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

**Criminal Misc.No.M-7472 of 2018 (O&M)
Date of Decision : 21.02.2018**

Chander Pal and others

..... Petitioners

Versus

Rishi Pal

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Y.S.Rathore, Advocate
for the petitioners.

RAJ SHEKHAR ATTRI, J. (Oral)

Petitioners have preferred the instant petition for quashing of complaint No.03 dated 04.06.2014, titled as Rishi Pal vs. Chander, pending in the Court of Sub Divisional Judicial Magistrate, Assandh, Karnal; summoning order dated 05.01.2016, passed by that Court in the said complaint and also the order dated 16.11.2017, passed by the learned Addl. Sessions Judge, Karnal in Criminal Revision No.39 of 2017 vide which the said revision petition moved by the petitioners for setting aside the impugned order dated 05.01.2016, has been dismissed.

Heard at length and gone through the material available on the record.

A bare perusal of the complaint transpires that the active role has been attributed to the petitioners with regard to causing injuries on the person of complainant. The case of the complainant is also corroborated by medical evidence. It is settled law that in order to exercise the inherent

powers of the High Court for quashing the criminal proceedings at an appropriate stage, the Court must be satisfied that the proceedings are abuse of the process of law or that no prima facie case is made out. The Hon'ble Supreme Court in **R.P.Kapur versus State of Punjab, AIR 1960 Supreme Court 866 at Page 870** has made the following observations:-

“It is of utmost importance that investigation into criminal offence must always be free from any objectionable features or infirmities which may legitimately lead to the grievance of the accused that the work of investigation is carried on unfairly and with any ulterior motive.”

The Hon'ble Supreme Court in **State of West Bengal vs. Swapan Kumar Guha, AIR 1982 Supreme Court 949** has made the following observations:-

“If the FIR does not disclose the commission of a cognizable offence, the Court would be justified in quashing the investigation on the basis of the information as laid or received. The following legal propositions are laid down as follows:-

“.....the legal position is well settled. The legal position appears to be that if an offence is disclosed, the Court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed; if, however, the materials do not disclose an offence, no investigation should normally be permitted Once an offence is disclosed an investigation into the offence must necessarily follow in the interests of justice. If, however, no offence is disclosed, an investigation cannot be permitted, as any investigation, in the absence of any offence being disclosed, will result in

unnecessary harassment to a party, whose liberty and property may be put to jeopardy for nothing. The liberty and property of any individual are sacred and sacrosanct and the Court zealously guards them and protects them. An investigation is carried on for the purpose of Gathering necessary materials for establishing and proving an offence which is disclosed. When an offence is disclosed, a proper investigation in the interests of justice becomes necessary to collect materials for establishing the offence, and for bringing the offender to book. In the absence of a proper investigation in a case where an offence is disclosed, the offender may succeed in escaping from the consequences and the offender may go unpunished to the detriment of the cause of justice and the society at large. Justice requires that a person who commits an offence has to be brought to book and must be punished for the same. If the Court interferes with the proper investigation in a case where an offence has been disclosed, the offence will go unpunished to the serious detriment of the welfare of the society and the cause of justice suffers. It is on the basis of this principle that the Court normally does not interfere with the investigation of a case where an offence has been disclosed” Whether an offence has been disclosed or not must necessarily depend on the facts and circumstances of each particular case If on a consideration of the relevant materials, the Court is satisfied that an offence is disclosed, the Court will normally not interfere with the investigation into the offence and will generally allow the investigation into the offence to be completed for collecting materials for proving the offence.”

In Pratibha Rani vs. Suraj Kumar, 1985 (1) RCR (Crl.) 539

(SC), the Hon'ble Supreme Court has observed as under:-

“It is well settled by a long course of decisions of this Court that for the purpose of exercising its power under Section 482, Criminal Procedure Code to quash a FIR or a complaint the High Court would have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same per se. It has no jurisdiction to examine the correctness or otherwise of the allegations.”

The Hon'ble Supreme Court in **State of Haryana and others versus Ch. Bhajan Lal Ors.** 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.”*

After going through the material available on the record i.e. complaint, medical report and evidence of CW1 Dr. Mohinder MO, CHC Assandh, a prima facie case is made out against the petitioner and no ground to quash the FIR is made out.

Accordingly, the instant petition stands dismissed.

21.02.2018
mamta-M

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No