

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10584-2015 (O&M)

Date of Order:18.07.2019

Shamsher Singh alias Shera and another

..Petitioners

Versus

Kundan Lal

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S.Dadwal, Advocate,
for the petitioners.

None for the respondent.

ANIL KSHETARPAL, J.

Called twice. Counsel for the respondent has not come present.

On 09.05.2019, position was not different. Hence, this Court is left with no choice but for to hear the counsel for the petitioners and decide.

Petitioners, namely, Shamsher Singh @ Shera and Mohinder Singh sons of Bachittar Singh have filed petition under Section 482 of the Code of Criminal Procedure with the prayer to quash complaint No.14 of 2013, dated 08.08.2013 and subsequent proceedings including summoning order dated 08.08.2013 and 12.09.2013.

Petitioner nos. 1 and 2 were convicted by Sub Divisional Judicial Magistrate, Balachaur vide judgment dated 10.01.2008, under Sections 324/323/325/452/506 and 148 IPC and sentenced to rigorous imprisonment for maximum period of 2 years. In appeal, learned Sessions Judge, vide judgment dated 20.04.2010, directed the accused to be released on probation on their furnishing probation bonds in the sum of Rs.10,000/-

with one surety of like amount for a period of one year. A copy of the judgment has been attached as Annexure P-1. The necessary bonds and sureties were submitted. Thereafter, Sub Divisional Magistrate directed the concerned SHO to search the premises of Subhash Chander, who was working as a Secretary of Rail Majra Cooperative Agriculture Society. The Sub Divisional Magistrate directed the respectables of the village to be associated. Pursuant thereto, a search was carried out and inventory of the documents and material recovered therefrom was prepared. One of the petitioner was allegedly present there.

Raghubir Singh, brother of Subhash Chander filed a criminal complaint impleading various accused including petitioners and police officials. In the aforesaid criminal complaint, the order of summoning was issued. On the basis of the aforesaid order of summoning, Kundan Lal filed an application before the learned District Judge alleging that the petitioners have committed another offence during the currency of the probation period and therefore, probation should be cancelled. Learned District Judge summoned various accused including the petitioners.

Counsel for the petitioners has submitted that the complaint filed by Raghubir Singh has already been quashed by this Court vide judgment dated 28.02.2019 passed in CRM-M-14782-2014. He, hence, submitted that the entire basis for initiation of proceedings for re-call of order of probation has ceased to exist.

It has been noticed that, although, respondent-Kundan Lal appeared through counsel on 07.05.2015 and filed reply, however, the substantive assertions made in the petition have not been denied.

The application filed by Kundan Lal is on the strength of

complaint filed by Raghbir Singh against the petitioners and the summoning order by the Court. Once the aforesaid criminal complaint has since been quashed, the entire basis of application filed by Kundan Lal praying for summoning of the petitioners who were released on probation and punishing them has ceased to exist.

Keeping in view the aforesaid facts, the present petition is allowed. The complaint dated 14/2013, dated 08.08.2013 (Annexure P-5) and the subsequent proceedings arising therefrom and the summoning order dated 08.08.2013 and 12.09.2013 (Annexures P-6 and P-7) are quashed.

July 18, 2019
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(ANIL KSHETARPAL)
JUDGE

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