

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

CRM No.M-11002 of 2015 (O&M)

Date of Decision: April 03, 2019

Kamal Parkash and others

...Petitioners

VERSUS

Jitender Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Deepender Singh, Advocate
for the petitioners.

Mr.Ashish Gupta, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.966 dated 11.12.2003 under Sections 148, 149, 323, 436, 395 and 506 IPC titled as 'Jitender Kumar vs. Kamal Parkash and others' and order dated 15.01.2015 passed by learned JMJC, Mohiwr Court at Punhana, whereby petitioners were summoned as well as impugned judgment dated 11.11.2014 passed by learned Addl. Sessions Judge, Nuh, vide which, revision petition filed by the respondent was allowed and order dated 16.10.2010 passed by learned SDJM, Ferozepur Jhirka, dismissing the complaint, was set aside.

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

I have heard learned counsel for the parties and have gone

through the record.

From the record, I find that Jitender Kumar filed a complaint against Kamal Parkash and eight other accused under Sections 148, 149, 323, 436, 395 and 506 IPC. The brief averments of the complaint was noted down by learned SDJM, Ferozepur Jhrika, in the order dated 16.10.2010, are as under:-

2. Briefly stated facts of the present complaint are that on 01.11.2003 at about 9.00 a.m., accused persons in furtherance of their common object came to house of complainant. Accused told father of complainant to leave the plot wherein they (complainant party) are residing. When father of complainant refused to do so, then accused persons became annoyed and accused no.1 told accused to set house of complainant on fire and ruin them. On this, accused No.4 provided match box to accused no.2 and he set house of complainant party on fire. All house articles of house of the complainant were ruined due to said fire. He raised noise and on hearing same, Ved Ram and Roop Chand etc. reached at the spot but could not control the fire. Besides this, accused persons took remaining articles of complainant in their tractor. Sunita, sister of complainant was also present at that time and accused no.1 gave danda blow to Sunita. While returning back, they have threat to kill them. Photographs of place of occurrence were taken. Sunita was medically examined on the orders of Tehsildar. Police did not take any action and hence, this complaint.”

In preliminary evidence, the complainant examined PW-1 Rakesh Kumar, PW-2 Roop Chand, PW-3 Dr.Chander Mohan, PW-5 Ved Ram, PW-6 Sunita, PW-7 Bhajan Lal and examined himself as PW-4.

evidence, I find that in view of the photographs placed on record by PW-1 and then the statements of eye witnesses Roop Chand, Ved Ram, Bhajan Lal and injured Sunita, which is supported by medical evidence, at this stage, there are sufficient grounds to summon the accused. The perusal of the orders passed by learned Courts below nowhere show that any illegality has been committed. For summoning the accused, the Court is only to see whether, prima facie there are sufficient grounds to summon the accused or in other words, to proceed with the case further. At this stage, there is nothing on the record from which the Court can held that it is a false version or occurrence has not taken place or injured and other eye witnesses are deposing falsely. Therefore, at this stage, there is nothing to quash the criminal complaint also.

The perusal of the complaint disclosed the commission of cognizable offence. The finding of fact is to be given by the trial Court as these cannot be given in the quashing petition filed under Section 482 Cr.P.C.

In view of the above discussion, I find that the order passed by learned Court below, summoning the accused and judgment dated 11.11.2014 passed by learned Addl. Sessions Judge, Nuh etc. in the complaint case, is correct, as per evidence and law and the same are upheld.

Therefore, finding no merit in the present petition, the same is dismissed.

April 03, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No