

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

**CRM-M-14610-2018 (O&M)
Date of Decision: 5.2.2019**

Malkiat Singh

.....PETITIONER(s).

VERSUS

State of Punjab and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Raj Kumar Gupta, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J.(Oral)

Through this petition filed under Section 482 of the Code of Criminal Procedure, the petitioner is seeking quashing of criminal complaint No.51 dated 26.7.2016 filed under Sections 323, 354, 354-A, 447, 506, 294 of Indian Penal Code as also summoning order dated 8.12.2017 pending before Judicial Magistrate, 1st Class, Ludhiana.

Heard.

It is specifically mentioned in the complaint that on 22.6.2016 between 11:00 a.m. to 12:00 p.m., complainant Jasvir Kaur was present at her residence. She found that the petitioner was having bricks and wanted to construct a common passage. At that time, the petitioner had given beatings to her. It is also asserted in the complaint that the petitioner had torn off the clothes of the complainant and

outraged her modesty.

Counsel for the petitioner has placed reliance on FIR No.0072 dated 22.6.2016 registered under Sections 341, 323, 342, 506, 148, 149 of Indian Penal Code at Police Station Dehlon, District Police Commissionerate which was registered at the instance of the petitioner wherein he has stated that at about 11:30 a.m., the prosecutrix along with other persons had attacked him.

It is a case of cross-versions. It can be ascertained which version is true and which party was the aggressor, only after adducing evidence. At this stage, version of the complainant cannot be discarded solely on the ground that the petitioner also lodged an FIR.

The Hon'ble Supreme Court in **State of Haryana and others v. Ch. Bhajan Lal and Ors.**, 1992 AIR (SC) 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.

However, nothing expressed above shall affect the merits of the case.

February 5, 2019

Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>