

CRM-M-14649 of 2017

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

CRM-M-14649 of 2017
Date of Decision: 09.01.2019

Shivam Sharma

...Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. N.S. Shekhawat, Advocate, for the petitioner.
Mr. Raj Kumar Makkar, Sr. DAG, Haryana.
Mr. Ajay Bishnoi, Advocate, for respondent No.2.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing FIR No.217 dated 20.06.2015 registered under Sections 323, 324, 325 and 34 IPC at Police Station Sector 5, Panchkula along with all consequential proceedings arising therefrom.

Briefly, respondent No.2 lodged aforesaid FIR against unknown persons on the allegations that in the evening of 14.06.2015, when he was returning from Tau Devi Lal Stadium after his stroll, someone addressing him mad, abused in the name of his mother and sister. In turn, complainant also abused him. In the meantime, another bald person reached the spot with a baseball bat. Thereafter, all the persons playing football there, gave him fist blows. When bald person tired after beating him with the baseball bat, he handed over the bat to another younger bald person, who hit the same on his head. As a result thereof, complainant became unconscious. On regaining consciousness, he found himself admitted in

CRM-M-14649 of 2017

Alchemist Hospital, Panchkula. His father was present there.

After investigation, final report under Section 173(2) Cr.P.C. against six persons, including petitioner was filed under Sections 323, 324, 325 and 34 IPC. However, on further investigation, all the persons were declared innocent. Since the police had already filed final report under Section 173(2) Cr.P.C. in Court against six persons, therefore, further investigation declaring all the accused as innocent and exonerating the petitioner by Deputy Commissioner of Police, could not be given effect.

Learned counsel for the petitioner, referring to two previous incidents dated 02.04.2015 and 05.06.2015 of respondent No.2 prior to registration of impugned FIR, *inter alia* contends that respondent No.2 is a man of unsound mind. Petitioner was not named in the FIR. No incriminating evidence could be collected by the police against the petitioner, who is a qualified engineer having done Bachelor of Engineering in Computer Science. Even identity of the petitioner could not be established during investigation.

On the other hand, learned counsel for respondent No.2-complainant, refuting above submissions, urges that respondent No.2 is not of unsound mind, rather he suffers from attacks of schizophrenia in intervals, when medicines are not given. He was a topper at Jawahar Lal Nehru University and completed his M.Phil degree from there. Had respondent No.2 been of unsound mind, he could not have completed his post-graduation.

Having given thoughtful consideration to the rival submissions, instant petition merits acceptance for the reasons to follow.

CRM-M-14649 of 2017

Impugned FIR pertains to the occurrence dated 14.06.2015. Prior to that on 02.04.2015, respondent No.2-complainant attacked one lady namely, Manju Sharma with a knife at Sector 21, Panchkula. On receipt of information about the same, police called the family members of respondent No.2 and handed over his custody to them, as is clear from para No.2 of reply of the State. After two months thereafter on 05.06.2015, respondent No.2 again attacked two ladies namely, Renu Gupta and Poojaa, Football Coach, at the place of impugned incident. Even respondent No.2 abused and mis-behaved with those ladies. Respondent No.2 was carrying a cricket bat. This incident is also mentioned by State in para No.2 of its reply. Thereafter on 14.06.2015 i.e. the date of incident against which FIR impugned herein has been recorded, respondent No.2 with a big knife chased certain ladies, who had come to Tau Devi Lal Stadium for evening walk. Some sports persons playing in the stadium saved those ladies. PCR was called by dialling No.100. DDR No.18 (Annexure P-2) was recorded. Vide recovery memo (Annexure P-3) knife was recovered from respondent No.2 and he was shifted to Alchemist Hospital, Panchkula. As per medical record of respondent No.2, he was observed as confused by the medical officer vide Annexure P-7. On next date i.e. 15.06.2015 fresh DDR (Annexure P-5) of even No.18 was recorded, but that was not made part of final report under Section 173(2) Cr.P.C. and has not seen the light of the day till date. After two days thereafter, on 16.06.2015, police approached respondent No.2 at his house for recording his statement, but could not record the same inasmuch as respondent No.2 being aggressive started abusing the police. Consequently, EHC Kishori Lal recorded DDR No.16

CRM-M-14649 of 2017

dated 16.06.2015, which reads as under: -

“16-SI Sukhbir Singh and return of self and information – On 16.06.2015 at 9:15 PM in the night, it has recorded that I SI along with other employees had left vide DDR No.14 of the roznamcha has returned from House No.851, Sector-21, Panchkula. Injured Akshay Bishnoi, his father Arun Johar Bishnoi, his mother and brother were found present at his house and I SI, was talking to the father of the injured with regard to this occurrence. In the meantime Akshay Bishnoi came out of his room and lost his temper and started speaking from loudly and started abusing. I SI along with other fellow employees came out of the house and along with us Arun Johar, father of the injured also came out of his house with us and started saying that his son was under treatment from PGI Chandigarh. There is certainly some problems in his mind. We do not want to take any action against anyone. His father was instructed that he should not send his son out along and he should get him treated properly. The report was registered in the Roznamcha for information.”

On 18.06.2015, respondent No.2 made a statement to the police that some football players caused him injuries, which culminated into impugned FIR.

Undisputedly, after filing of final report under Section 173(2) Cr.P.C. in Court against six persons on the representation of petitioner and that of respondent No.2 as well, further investigation was conducted and all the six persons, including petitioner, against whom final report under Section 173(2) Cr.P.C. was filed, were found innocent. However, the police was helpless to cancel the impugned FIR against them for the reason that it

CRM-M-14649 of 2017

had already submitted final report against them in Court.

Undisputedly, there is no *iota* of evidence on the record showing complicity of the petitioner inasmuch he is not specifically named in the FIR, which was recorded against unknown players. Even none of the witness of respondent No.2 named the petitioner as accused. Therefore, it is abundantly clear on the record that there is no evidence about the complicity of the petitioner regarding the alleged beating to respondent No.2 on 14.06.2015. Even his presence could not be proved at the time of occurrence. It is possible that respondent No.2 might have been beaten by some persons to refrain him from abusing and chasing two ladies, who had come for stroll in the stadium i.e. the place of occurrence, when he must not have refrained himself from teasing those women despite their requests.

In view of discussion made above, petition is allowed. FIR No.217 dated 20.06.2015 along with all consequential proceedings arising therefrom is quashed.

January 09, 2019	(RAMENDRA JAIN)
R.S.	JUDGE
Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No