IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-16786-2018

Date of decision: 30.05.2019

Vivek Singla and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Aayush Gupta, Advocate for the petitioners.

Mr. AS Gill, DAG, Punjab.

Mr. AP Singh Chaudhary, Advocate
for respondents No. 2 and 3.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing Criminal Case No. 1 dated 01.05.2015 (Annexure P-5); summoning order dated 26.03.2018 (Annexure P-6) passed in violation of Section 210 Cr.P.C. and all the consequential proceedings arising therefrom qua the petitioners.

According to the prosecution, on 11.09.2013, the petitioners and their accomplice-Rahul, after obstructing way of complainant-respondent No. 2 and his colleague-Vipin Kumar-respondent No. 3, caused multiple grievous injuries to both of them, including fracture to respondent No. 3, with their deadly weapons like iron rods and baseball bat etc. This incident was culminated into FIR No. 193 dated 12.09.2013 (Annexure P-1) under Sections 308, 325, 323, 506, 148 and 149 IPC at

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Police Station Salem Tabri, District Ludhiana City. However, the police slept over the matter. Consequently, respondent No. 3-Vipan Kumar, approached this Court by way of CRM-M-30005-2014, for issuance of necessary directions to the police authorities to investigate the matter properly and expeditiously, which was disposed of by this Court vide order dated 23.02.2015 (Annexure P-2), on disclosing the fact that police is going to file untraced report. While disposing the said petition, respondent No. 3 was given liberty to file objections to the untraced report, if any, before the trial Court, if, he so desires. Simultaneously, the concerned Court was also directed that it may well order further investigation or initiate whatever action may be required in the facts and circumstances. Untraced report was filed by the police in the first week of March, 2015.

Respondent No. 3, concealing the said order dated 23.02.2015 (Annexure P-2) filed the impugned private complaint (Annexure P-5), on the same set of allegations adding some more sections against the petitioners and 5-6 un-known persons, without disclosing the fact that he was given liberty to file protest petition. In the meantime, the respondent No. 2 filed protest petition dated 21.11.2016 (Annexure P-3) which was treated as a complaint case by the concerned Court vide order dated 05.06.2017 (Annexure P-4) in which after recording preliminary evidence, the petitioners have been summoned. Now, the petitioners and their co-accused Rahul, are facing two private complaints on similar set of allegations i.e. one of respondent No. 2 on conversion of his protest petition into complaint and second by way of private complaint

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(Annexure P-5) by respondent No. 3.

Heard.

The complaint (Annexure P-5) is hit by the doctrine of "double jeopardy", inasmuch as a person cannot be vexed twice for the same offence. Since, the protest petition of respondent No. 2 is treated as complaint in compliance to order Annexure P-2 of this Court, which was passed much earlier before filing of private complaint (Annexure P-5). Therefore, this Court is of the considered opinion that complaint of respondent No. 3 is not maintainable.

Accordingly, the instant petition is allowed. Consequently, Criminal Case No. 1 dated 01.05.2015 (Annexure P-5); summoning order dated 26.03.2018 (Annexure P-6) and all the consequential proceedings arising therefrom qua the petitioners are quashed. The concerned Court which had treated the protest petition of respondent No. 2 as complaint shall be at liberty to proceed against the petitioners, in accordance with law.

May 30, 2019 **(RAMENDRA JAIN)**
rishu **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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