

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-22029 of 2015 (O&M)

.....

Date of decision:14.05.2019

Davinder Singh and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

Present: Mr. H.S. Sirohi, Advocate for the petitioners.

Ms. Monika Jalota, Deputy Advocate General, Punjab for the respondent-State.

Mr. Gagandeep Singh Sirphikhi, Advocate for complainant-respondent No.2.

.....

**Inderjit Singh, J.**

This petition has been filed under Section 482 Cr.P.C. praying for quashing of criminal complaint No.342 dated 15.7.2014 (Annexure-P.1) filed for the offences under Sections 326, 325, 324, 452, 341, 506, 148 read with Section 149 IPC and summoning order dated 16.5.2015 (Annexure-P.7) passed by the learned Judicial Magistrate Ist Class, Pathankot.

Notice of motion was issued in this case.

Ms. Monika Jalota, learned Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and Mr. Gagandeep Singh Sirphikhi, learned Advocate has appeared for the complainant-respondent No.2 and contested this petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

At the time of arguments, learned counsel for the petitioners

argued that earlier the FIR was registered on the similar facts and in that case cancellation report has been filed. Now the complainant has filed the criminal complaint on the same facts and the summoning order has been passed by the learned trial Court. He argued that when the cancellation report is already there, the accused cannot be summoned in the complaint case and the criminal complaint cannot be filed and is liable to be quashed.

On the other hand, learned counsel for private respondent argued that there is no bar in filing the criminal complaint when the Police is not taking any action. Learned counsel for the private respondent relied upon Section 210 Cr.P.C. and argued that even if the Court has taken the cognizance on the Police report in FIR case even then the complaint is not liable to be quashed, but it is to be clubbed with the FIR case and both these cases are to be tried as these have been filed on Police report. He also argued that even if the Court feels that the investigation is pending, then the proceedings of the complaint are to be stayed under Section 210 Cr.P.C. He argued that in view of the specific provisions how to deal with the complaint case if the Court has taken the cognizance on the Police report in the FIR case, on this ground the criminal complaint cannot be quashed.

After hearing learned counsel for the parties, I find that there is merit in the arguments of the learned counsel for the private respondent. In the present case, as per the version of the petitioner, no cognizance has been taken by the trial Court on the Police report. Rather, a cancellation report has been filed. Therefore, in these circumstances, the complainant is at liberty to file the criminal complaint qua the same facts. Furthermore, even if it is taken otherwise that on the similar facts FIR has been registered and

also criminal complaint is filed, then the procedure has been given under Section 210 Cr.P.C. to deal with the situation.

Keeping in view the above facts, I find that this complaint is not liable to be quashed.

Furthermore, a perusal of the summoning order shows that two grievous injuries have been suffered by the complainant and one grievous injury with sharp edged weapon on the leg has been received by Narinder Kaur-injured.

Keeping in view the above facts, I find that, in no way, filing of complaint can be held as abuse of process of law or amounts to miscarriage of justice.

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

May 14, 2019.

**(Inderjit Singh)**  
**Judge**

\*hsp\*

|              |                            |     |
|--------------|----------------------------|-----|
| <b>NOTE:</b> | Whether speaking/reasoned: | Yes |
|              | Whether reportable:        | No  |