

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

CRM-M-23251-2016 (O&M)

Date of decision: 24.09.2019

Jasvir Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sanjiv Gupta, Advocate
for the petitioners.

Mr. Jagmohan Ghumman, DAG, Punjab.

Mr. R.S. Pathania, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J.

The petitioners have prayed for quashing of FIR No.54 dated 23.04.2015 for the offences punishable under Sections 323, 324, 506, 34 of the Indian Penal Code ('IPC' for short), registered at Police Station Mukerian, District Hoshiarpur and all the subsequent proceedings arising therefrom.

Brief facts of the case are that respondent No.2-complainant Aman Kumar got the aforesaid FIR registered against the petitioners with the allegations that the complainant is a Teacher in Govt. Elementary School, Harsa Mansar, District Hoshiarpur. On 22.04.2015, after marking the attendance in the school, he had gone to the office of Block Primary

Education Officer, Talwara for getting signatures on the salary bills, when Madam Parminder Kaur gave message on his mobile phone that the orders are issued in favour of accused-petitioner No.1 Jasvir Singh for taking charge of the school. On this, he asked Jasvir Singh on mobile phone to have a word with Block Primary Education Officer and petitioner No.1 started abusing him on the mobile phone. The wife of Jasvir Singh, petitioner No.2- Kulwant Kaur is also a Teacher in the school. When the complainant returned to the school, both Jasvir Singh and his wife gave him threat to shunt him out the school. When the school time was over, the complainant was standing outside the school, then both the accused persons came there and after stopping the car, Jasvir Singh caught hold of him from his neck and gave a kirch blow on his hand and Kulwant Kaur gave two danda blows, which hit on his back. Upon raising voice, accused ran away from the spot.

Learned counsel for the petitioners submits that the petitioners, who are themselves Teachers in the same school, gave a representation dated 26.11.2011 to the Senior Superintendent of Police, Hoshiarpur to conduct an inquiry, as they have been falsely implicated by the complainant, a co-Teacher, as he could not tolerate that being senior, the charge of the salary was given to Jasvir Singh. It is further submitted that the inquiry was conducted by Assistant Superintendent of Police, Dasua and during the inquiry, ASP recorded the statements of six witnesses from the petitioners' side and 09 witnesses from the complainant's side and on appreciation of the statements, recording the following conclusion: -

“Conclusion of report: -

During the investigation of the case on perusal of case

file, investigation conducted from both the parties and from the investigation conducted at the spot, it has been revealed that the applicants Jasveer Singh son of Kartar Singh and his wife Kulwant Kaur residents of Village Mehtabpur Police Station Mukerian, both these are teachers in Government Elementary School, Harsa Mansar. In this school complainant of the case Aman Kumar is also teacher in this school. Due to vacant post of Head Master in this school, there are dispute between Jasveer Singh and complainant of case Aman Kumar regarding the incharge of the school. Qua this dispute on 22.04.2015 applicants party Jasveer Singh and his wife Kulwant Kaur there was arguments in the school with complainant of case Aman Kumar has been verified. But on 22.04.2015 in between both the parties after over of school, outside the gate of school, from applicant Jasveer Singh and his wife Kulwant Kaur regarding giving injuries nothing has came out. On dated 22.04.2015 from Jasveer Singh regarding taking charge of the school, due to this grudge, complainant Aman Kumar in a planned manner, by self sustaining injuries or getting inflicting friendly injuries, obtaining MLR, has got lodged false case against Jasveer Singh and his wife Kulwant Kaur. That from till date secret and open investigation, from complainant Raman Kumar, in case No.54 dated 23.04.2015 under Sections 323, 324, 506, 34 IPC Police Station Mukerian against Jasveer Singh son of Kartar Singh and his wife Kulwant Kaur residents of village Mehtabpur Police Station Mukerian, the incident is not verified. As such in the case it is recommended to submit the cancellation report.

Report is submitted for appropriate orders.

*Sd/-
Assistant Superintendent
of Police, Dasua.
Dated: 23.04.2016*

*1958 PC
Dt. 27.5.16
Order SHO PS Mukerian
Approved
Sd/-
Sr. Superintendent of Police,
Hoshiarpur.
26.5.16.”*

Learned counsel for the petitioners has further submitted that in the inquiry report, it was recommended that the FIR be cancelled and thereafter, Senior Superintendent of Police, Hoshiarpur approved the same on 26.05.2016 and the said inquiry report was sent to the SHO, Police Station Mukerian who received the same vide endorsement No.1958PC dated 27.05.2016. It is further submitted that in the meantime, the SHO, Police Station Mukerian, under the pressure of complainant Aman Kumar, knowingly that ASP, Dasua has recommended cancellation of FIR on 23.04.2016, hurriedly submitted the report under Section 173 (2) Cr.P.C. before the Illaqa Magistrate on 18.05.2016. Thereafter, the petitioners again gave a representation dated 23.06.2016 to the Senior Superintendent of Police, Hoshiarpur, against the wrong submission of the challan by the SHO, Police Station Mukerian, however, no action was taken. It is next argued that during the inquiry, witness No.3 Gurmit Kaur and witness No.4 Saab Singh (both Teachers in same school) appeared before the Inquiry Officer and while relying upon their statements that no such incident has taken place, the Inquiry Officer recommended to submit a cancellation report.

Learned counsel for the petitioners has next argued that petitioner No.1 is senior to complainant Aman Kumar, as per the seniority list of the ETT Teachers, working under Zila Parishad, Hoshiarpur, as

petitioner No.1 is at Sr. No.226 and the complainant is at Sr. No.380, therefore, being the senior Teacher, petitioner No.1 was given charge of the school and this fact was not acceptable to the complainant and on that account, he has got the false FIR registered. It is further argued that though the incident pertains to management inside the Govt. School and it is stated that the petitioners gave beating to the complainant outside the school gate, however, no complaint was given by the complainant to any higher officer including BPEO, Talwara or DEO, Hoshiarpur that any such incident has taken place, which shows that that the petitioners are falsely implicated in the FIR.

Learned counsel for the petitioners has also argued that prosecution of the petitioners is malafide, as the SHO, Police Station Mukerian has shown undue favour to the complainant, while submitting the challan, in spite of the fact that cancellation report was recommended by the Inquiry Officer i.e. ASP, Dasua and approved by SSP, Hoshiarpur.

Learned State counsel, on the basis of affidavit of Deputy Superintendent of Police, Sub Division Mukerian, Hoshiarpur, has not disputed that on a representation given by the petitioners, ASP, Dasua conducted the inquiry and vide inquiry report dated 23.04.2016, recommended cancellation of the FIR. It is also not disputed that the application was given by petitioner No.1 on 25.11.2015, when investigation in the FIR was also pending and on receiving the inquiry report from the Assistant Superintendent of Police, Dasua, Senior Superintendent of Police, Hoshiarpur approved the same on 26.05.2016 and the said inquiry report was sent to SHO, Police Station Mukerian on 27.05.2016, but he had submitted

the challan prior to the same, on 18.05.2016 and therefore, the matter is now subjudice before the trial Court.

Learned counsel for respondent No.2 has also filed written statement on behalf of respondent No.2. It is argued that petitioner No.1, in order to take control of the school, had in fact caused injuries to the complainant, who was holding the charge on the date of incident. The factum of inquiry report, as approved by the Senior Superintendent of Police, Hoshiarpur on 26.05.2016, is not disputed, however, it is submitted that since the challan stands presented, the same is subject to outcome of the trial.

In reply, learned counsel for the petitioner has argued that neither in the FIR nor in the reply filed, the complainant has stated a single word that regarding the incident, he has made any complaint to any of his superior officer for taking any departmental action, which shows that the complainant has registered this FIR only with malafide intention. It is further argued that though it is accepted by the complainant that Senior Superintendent of Police, Hoshiarpur has finally approved cancellation of FIR on 26.05.2016, yet the complainant has not challenged the same before any authority.

After hearing learned counsel for the parties, I find merit in the present petition, for the following reasons: -

- (a) As per allegations in the FIR, both the petitioners, who are husband and wife and are also Teachers in same school, where the complainant is also a Teacher, have abused and caused injuries to him outside the school gate, as petitioner No.1 being senior asked him to hand over the charge. A perusal of the FIR

itself shows that the complainant received an information from one Parminder Kaur, co-Teacher that orders are issued in favour of Jasvir Singh-petitioner No.1 for taking charge of the school and when Jasvir Singh called the complainant on mobile phone, they exchanged hot words, therefore, it is apparent that the complainant was resisting in handing over the charge to petitioner No.1 Jasvir Singh, who is senior to him, as per the seniority list (Annexure P-1) and in the inquiry report, it is found that no such incident of causing injuries to the complainant has taken place, as some other Teachers have deposed in favour of the petitioners and refuted version of the complainant.

- (b) A perusal of the FIR as well as reply filed on behalf of respondent No.2 nowhere depict that the complainant, at any stage, had given any complaint to his immediate higher officers of Education Department regarding the incident of beating and therefore, the inquiry report dated 23.04.2016, exonerating the petitioners, is self-explanatory.
- (c) Even otherwise, without awaiting the final outcome of the inquiry and approval of the Senior Superintendent of Police, Hoshiarpur, in the intervening period i.e. 23.04.2016 to 27.05.2016, SHO, Police Station Mukerian has presented the challan on 18.05.2016, though the SHO was well aware of the inquiry report. Therefore, action on the part of SHO, Police Station Mukerian to submit the report under Section 173 (2)

Cr.P.C., without awaiting the final approval of the Senior Superintendent of Police, Hoshiarpur, which came in favour of the accused on 26.05.2016, appears to be a malafide action.

- (d) Though in the FIR, it is stated that both the petitioners have caused two injuries to the complainant, however, the same were not verified by the Inquiry Officer and rather a finding is recorded that the complainant, in a planned manner, by self-sustaining injuries, obtained the MLR and got the false case registered against his co-Teachers Jasvir Singh and his wife Kulwant Kaur.

For the reasons recorded above and in view of judgment of the Hon'ble Supreme Court in **State of Haryana and others Vs. Ch. Bhajan Lal and ors., 1991 (1) RCR (Crl.) 383**, wherein it is held that the criminal proceeding initiated by the complainant with malafide intention and ulterior motive, for wreaking vengeance on the accused to settle the personal grudge, can be quashed, this petition is allowed and FIR No.54 dated 23.04.2015 under Sections 323, 324, 506, 34 IPC, registered at Police Station Mukerian, District Hoshiarpur and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners.

[ARVIND SINGH SANGWAN]
JUDGE

24.09.2019
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No