

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28214-2012 (O&M)

Date of decision: 06.12.2019

Sandeep Kumar and others

....Petitioners

Versus

Jagdish Kumar and another

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikram Chaudhary, Sr. Advocate with
Mr. Sartaj Singh Gill, Advocate
for the petitioners.

Mr. R.S. Bains, Advocate
for respondent No.1.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of criminal complaint No.552/11 dated 31.10.2011 (Annexure P-9) filed under Sections 323, 395, 452, 506, 427, 148, 149, 120-B of the Indian Penal Code (for short 'IPC') titled as Jagdish Kumar Singh Vs. Sarabjit Singh and others and the summoning order dated 10.01.2012 (Annexure P-13) passed by the Judicial Magistrate 1st Class, Amritsar, vide which the petitioners had been summoned to face the trial under Sections 323, 452, 506, 427, 148, 149, 120-B IPC as well as all the consequential proceedings arising therefrom.

Brief facts of the case are that respondent-complainant Jagdish Kumar filed the aforesaid complaint against the petitioners and others accused persons, with the allegations that accused No.1 Sarbjit Singh @ Raju is running a cable company under the banner of Surya Satellite Service, at Amritsar, having the rights of Satellite Television Channels. He is having a dispute with cable operator namely M/s God Father Communication. On 14.09.2011, when the complainant was working in his shop, the accused persons armed with weapons, entered the premises and threatened him, by saying that they have come from MSM Discovery Channel and the complainant is unauthorizedly using their channel. The complainant protested the accused persons, indulged in violence and they caused severe damage in the shop. When shopkeepers of the adjoining shops came to save him, the accused persons ran away.

The trial Court, thereafter, recorded statements of the complainant and other witnesses and vide impugned order dated 10.01.2012, summoned the petitioners and other accused persons. The impugned summoning order reads as under: -

“The complainant – Jagdish Kumar has filed the present complaint against the accused Sarbjit Singh and others under Sections 323/395/452/506/427/148/149 and 120-B IPC.

Briefly the facts of the present complaint as alleged in the complaint are that he had taken connection of cable under name and style of God Father for running the television at his shop and he used to pay the charges every month. The complainant has stated that the accused No.1- Sarbjit Singh @ Raju used to run Cable Company under the name and style of Surya Satellite

Service at Mall Road, Amritsar and besides this he used to sell satellite Television Channels. The complainant further stated that the accused Sarbjit Singh @ Raju is having altercation with God Father Cables regarding authorization, in which he is having no concern. The complainant further stated that on 14.09.2011 at evening time, he was present at his shop and at about 7 p.m. the accused No.2- Sandeep Kumar armed with kirpan along with other persons namely Angad Singh armed with base ball bat, Vikram Chander and Pankaj Kumar armed with baseball bat and other unknown persons who were having dangs and kirpans forcibly entered into his shop and when he asked about the reason for entering his shop forcibly and then Sandeep Kumar said that they have come from MSM Discovery Channel and further said that he is unauthorizedly running their Channels and on this he said that he had taken the cable connection from God Father and they showed that channels and he is not guilty for that but the accused persons did not pay any heed to his request and they started beating him and Sandeep Kumar snatched Rs.2000/- from his cash box and the accused Angad Singh broke his television by hitting the same with base ball bat and he also gave first blows to him and all the accused also scattered the articles of the shop and Sandeep Kumar also took the articles of the shop. The complainant further stated that Jagraj Singh Sangra who is employed in MSM Discovery Channel was officiating all the accused and all the accused threatened him with dire consequences if he will continue the connection of God Father. The complainant further stated that the accused Angad Singh raised lalkara that in Amritsar City, only Fast Way Cable will run and they will not allow any body to run any cable connection. The complainant further stated that on seeing the situation, his friend and other shopkeeper Ricky

Bhalla son of Om Parkash Bhalla came at the spot and they rescued him from clutches of the accused and after that they ran away from the spot. The complainant further stated that all the incident occurred at the instance of Sarbjit Singh @ Raju and Jagraj Singh Sangra as they have only powers to run Fast Way Cable Network and they did not want that any other cable connection run in Amritsar City. The complainant further stated that he moved application dated 14.09.2011 before police chowki Lawrence Road, Amritsar but the police did not take any action against the accused being influential person. In the end, the complainant prayed that legal action be taken against the accused persons. Hence, the present complaint.

In his preliminary evidence, the complainant – Jagdish Kumar examined himself as CW1 and further examined CW2 – Ricky and thereafter, the complainant closed his preliminary evidence.

I have heard learned counsel for the complainant and have gone through the file carefully.

The complainant – Jagdish Kumar while appearing in the witness box as CW1 has deposed as per version of the complaint in totality and CW2 – Ricky also supported the testimony of the complaint.

From the evidence led on record and after hearing learned counsel for the complainant, ex-facie case under Sections 323/452/506/427/148/149 and 120-B IPC is made out against all the accused. Therefore, all the accused be summoned to face trial for an offence punishable under Sections 323, 452, 506, 427, 148, 149 and 120-B IPC for 13.3.2012 on filing PF/DM, copies of complaint and list of witnesses etc.”

The petitioners have filed the present petition challenging the impugned criminal complaint and the impugned summoning order dated

10.01.2012.

Learned senior counsel for the petitioners has argued that one Gurdev Singh Bhullar is a man of criminal antecedents and he is facing trial in five FIRs i.e. FIR No.92 dated 19.03.1991, FIR No.101 dated 22.03.1991, FIR No.162 dated 12.07.1987, FIR No.154 dated 06.07.1987 and FIR No.63/1991, all registered at Police Station Civil Lines, Amritsar and is trying to exert pressure on the petitioners for doing his business of cable service. It is further argued that there are two cable operators in Amritsar namely M/s God Father Communication, run by Gurdev Singh Bhullar and another Royal Communication, run by Harish Kumar and the petitioners are authorized representatives for broadcasting of the TV channels. It is next argued that in fact, the complaint has been filed to put pressure on the petitioners to get monopoly of the business in the area, though civil and other criminal litigations are pending between the parties, including a complaint before the District Consumer Disputes Redressal Forum, Amritsar.

Learned senior counsel for the petitioners has further argued that the trial Court, without following the proper procedure, has passed the summoning order, though an FIR No.302 dated 27.12.2010, on the complaint of petitioner Sandeep Kumar regarding the incident, is already registered and therefore, prosecution was barred under Section 210 Cr.P.C.

In reply, learned counsel for the respondent-complainant has argued that the trial Court had passed a well reasoned order, on appreciation of the preliminary evidence led by the complainant and it is matter of evidence, whether FIR No.302 was registered for the similar incident or not.

It is further argued that entire case of the petitioners is based on certain evidence and documents, which are not *per-se* admissible and therefore, there is no ground for quashing of the impugned complaint and the summoning order.

It is worth noticing here that this petition is pending since 2012 and therefore, the same is taken up in the urgent list for final disposal.

After hearing learned counsel for the parties, I find no merit in the present petition.

The case of the complainant and the petitioners is based on rivalry in the cable business and both the sides have filed litigations against each other. The trial Court had passed a well reasoned order, after appreciating the preliminary evidence and the arguments raised on behalf of the petitioners are based on appreciation of the defence evidence, which could not be looked into at this stage, therefore, I do not find it to be a case falling within the guidelines laid down by the Hon'ble Supreme Court in **State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335.**

Accordingly, the present petition is dismissed.

Since the impugned complaint pertains to the year 2011, the trial Court is directed to expedite the trial.

[ARVIND SINGH SANGWAN]
JUDGE

06.12.2019
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No