

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

CRM-M No.25484 of 2017
Date of decision: 28th March, 2019

Jasbir Singh & others

... Petitioners

Versus

State of Punjab & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Harpreet S. Gharuan, Advocate for the petitioners.

Mr. Saurav Khurana, Dy. Advocate General, Punjab
with ASI Avtar Singh, Police Station Kurali
for the respondent No.1/State.

None for respondent No.2.

FATEH DEEP SINGH, J.

Petitioners Jasbir Singh, Dharinder Singh and Naib Singh, who are accused in complaint bearing No.6034/2013 dated 29.05.2013 pending in the Court of learned Judicial Magistrate 1st Class, Rupnagar titled as 'Balwinder Kaur vs. Jasvir Singh & others' under Sections 323, 324, 326, 354, 506 IPC, have through this invocation under Section 482 Cr.P.C. sought quashment of the complaint (Annexure P5) and the summoning order (Annexure P6) passed by the Court of learned Judicial Magistrate 1st Class, Rupnagar.

The brief allegations have been levelled by the complainant Balwinder Kaur alleging that on 08.02.2013 while she along with her husband were going on scooter towards Kurali around 8:30 a.m. a vehicle

came and on seeing them accused Jasvir Singh came out of the vehicle and caught hold of the husband of the complainant and gave him beatings and hurled filthy abuses and when the complainant intervened the accused tried to outrage her modesty. It is alleged that accused Dharminder Singh gave a kirch blow to the complainant as well. Upon raising of rroula, the accused fled away and thereafter the complainant was taken to hospital where she was medically examined.

After recording preliminary evidence, the Court through orders (Annexure P6) summoned them for commission of offences under Sections 323, 324, 506, 354 IPC.

Heard Mr. Harpreet Singh Gharuan, Advocate for the petitioners; Mr. Saurav Khurana, learned Deputy Advocate General, Punjab and perused the records of the case.

The lone and the only point that has been canvassed before this Court by the learned counsel for the petitioners is that earlier FIR No.30 dated 19.03.2011 under Sections 323, 324, 34 IPC was lodged by present petitioners against the present complainant side and claims that the complaint was filed as a counter-blast in which the petitioner stood acquitted on 15.12.2016. It is further argued that another FIR No.18 dated 11.02.2013 under Sections 323, 324, 34 IPC was registered at Police Station Kurali by the present complainant and the police filed cancellation report in the same and subsequently the present complaint has come about on 29.05.2013.

The second point that has been sought to be assailed is that the present Court lacks territorial jurisdiction as the alleged occurrence has taken place in the jurisdiction of District Kurali whereas complaint has been filed in Rupnagar.

Appreciating the submissions, a close look at the complaint (Annexure P5) as argued by the respondent side shows that occurrence has taken place in the area of Kurali and therefore, in the absence of any evidence to the contrary this Court cannot draw any conclusion and which fact can only be comprehensively decided at the time when the parties lead their evidence. It would be too preposterous for this Court to interfere at this juncture, on that score. The claim that it is as a counterblast to the FIR case got lodged earlier by the petitioner side, appears to be on a shaky wicket. As the FIR case (Annexure P1) shows occurrence has taken place on 15.03.2011 whereas the present occurrence has come about on 08.02.2013 and thus, cannot be reasonably accepted to be supporting the arguments put forth by the petitioner side. Though learned counsel for the petitioners has placed reliance on **‘Dhariwal Tobacco Products Ltd. and others vs. State of Maharashtra and another’ 2011 AIR (SC) (Crl) 1846**, to hammer home the point that the petition under Section 482 Cr.P.C. lies in such an eventuality however, in a subsequent view of Hon’ble the Supreme Court by a Larger Bench in **‘Urmila Devi vs. Yudhvair Singh’ (Crl. Appeal No.1822 of 2013) decided on 23.10.2013**, have held as follows:

23. When we declare the above legal position without any ambiguity, we also wish to draw support to our above conclusion by referring to some of the subsequent decisions. In a recent decision of this Court in **Om Kumar Dhankar v. State of Haryana and another reported in 2012 (11) SCC 252**, the decisions in *Madhu Limaye (supra)*, *V.C. Shukla (supra)*, *K.M. Mathew (supra)*, **Rakesh Kumar Mishra v. State of Bihar and others reported in 2006 (1) SCC 557** ending with *Rajendra Kumar Sitaram Pande (supra)*, was considered and by making specific reference to paragraph 6 of the judgment in *Rajendra Kumar Sitaram Pande*, this Court has held as under in paragraph 10:

‘10. In view of the above legal position, we hold, as it must be, that revisional jurisdiction under Section 397 Cr.P.C., was available to the Respondent No.2 in challenging the order of the Magistrate directing issuance of summons. The first question is answered against the appellant accordingly.’

24. Therefore, the position has now come to rest to the effect that the revisional jurisdiction under Section 397 Cr.P.C. is available to the aggrieved party in challenging the order of the Magistrate, directing issuance of summons.”

More so, what stands reflected from this petition is that it is a frantic effort by the petitioners to put to hold the proceedings against

them and the counsel could not convince how there has been miscarriage of justice necessitating intervention by this Court by exercise of its inherent powers under Section 482 Cr.P.C. Finding no merit, the present petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

March 28, 2019

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No