

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

CRM-M-31003-2014

Date of Decision: 10.12.2019

Amrinder Singh and others

...Petitioners

Versus

Shanti Devi and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.B.S.Sewak, Advocate for the petitioners.
Mr.Ashok Bhardwaj, Advocate for respondent No.1.
Mr.Hittan Nehra, Addl. A.G., Punjab.

ANIL KSHETARPAL, J.

Prayer is for quashing of criminal complaint and subsequent proceedings initiated on the basis thereof in exercise of powers under Section 482 of the Code of Criminal Procedure.

Learned counsel for the petitioner No.1 contends that on the report lodged by the first informant in the FIR and the complainant-respondent herein, petitioner No.1 has been tried by the Court of Sessions and acquitted.

Learned counsel for respondent No.1 does not dispute that the assertions/averments in the FIR as well as present complaint are same. The FIR was registered by Shanti Devi wife of Baldev Singh, complaining that her daughter has been killed on 17.02.2013 by petitioner No.1 with whom she was married.

The Court of Sessions, while delivering detailed judgment, has recorded following findings:-

“The totality of the circumstances discussed above, has shown that the prosecution has failed to establish on record the

circumstances so as to establish the hypothesis of the guilt of the accused. Even the evidence of the prosecution has given rise to one more hypothesis, which is opposite to the hypothesis of the guilt of the accused. Even the chain of events has not been proved by the prosecution beyond the shadow of reasonable doubt and as such, it cannot be said that the death of Manpreet Kaur, if homicidal, was caused by the accused Amrinder Singh.”

The present criminal complaint has been filed by Shanti Devi making similar allegations with respect to death of her daughter on 17.02.2013 for which the petitioner No.1 has already been tried and acquitted.

Section 300 of the Code debars trial of the same accused for the same offence with regard to same incident once he has been tried and acquitted. Section 300 of the Code reads as under:-

“300. Person once convicted or acquitted not to be tried for same offence.—(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under subsection (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act,

constituted a different offence from that of which he was convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 (10 of 1897) or of section 188 of this Code.”

Keeping in view the aforesaid bar, proceedings against petitioner No.1 would result in abuse of the process of the court.

Accordingly, present petition is allowed qua petitioner No.1.

As regards petitioners No.2 to 8, no ground is made out to quash the proceedings against them and accordingly, the present petition is dismissed qua petitioners No.2 to 8.

10.12.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No