

202.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32226-2015 (O&M)

Date of decision:28.05.2019

MUKESH & ORS

... Petitioners

versus

STATE OF HARYANA & ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. S.S. Dinarpur, Advocate,
for the petitioners.

Ms. Priyanka Sadar, AAG, Haryana,
for respondent No.1.

Mr. Surender Kr. Biriwal, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

Petitioners have filed the present petition under Section 482 Cr.P.C. for quashing of F.I.R. No.133 dated 21.06.2013 registered under Sections 354/506/34 of IPC with Police Station Mullana (Annexure P-7) along with all subsequent proceedings initiated therefrom including order dated 19.08.2015 (Annexure P-8 colly) whereby accused have been charge-sheeted in the case.

As per the FIR, the respondent No.2 had submitted a complaint against the petitioners/accused with the allegation that the accused had come to her house and started hurling abuses. However, when the complainant raised objection, she was misbehaved and was given a push. Even her children were also pushed off the cot. When the complainant had raised the

eliminate the complainant, her children and her husband, fled away from the spot. The accused had further threatened the complainant that no harm can be caused to them as they have strong political connections.

The aforesaid FIR was enquired into by ASI Rajinder Singh, Police Station Mullana. The ASI had prepared a report dated 08.03.2013. As per the report, during inquiry it was found that the allegations levelled in the complaint were found baseless and without any truth. The family of complainant is habitual of making such repeated complaints and on verification, no truth was found in the complaint. Accordingly, the same was recommended to be consigned to the record room.

Since the complainant was not satisfied with the aforesaid report, on her fresh complaint, the DCP, Ambala (Rural) had further directed the SHO concerned to re-look into the complaint. In this process, the statement of Punnu Ram son of Jhandu Ram, who is father-in-law of the complainant and the statement of respondent No.2-Angrejo Devi, who is the complainant in the case, were recorded. Punnu Ram has not supported the incident at all and rather stated that in his presence, no beatings were given to respondent No.2-Angrejo Devi and only a verbal duel had taken place between the parties and both the parties had gone to the police station. But in her statement, respondent No.2 has reiterated the averments of the complaint to the effect that the accused had hurled abuses upon her and had given beatings to her, for which, she was medically examined. She sought action against the accused.

On the basis of statements so recorded, the SHO vide his report dated 14.04.2013 has reported that as per the statement of ocular witness

Punnu Ram son of Jhandu Ram (father-in-law of the complainant), the ladies from both sides had hurled abuses to each other and no beating was given to respondent No.2-Angrejo Devi. Thus, the allegations levelled in the complaint were found without any substance.

Counsel for the petitioners has argued that the petitioners have falsely been implicated in the case. The parties are already in dispute over a drainage and in order to implicate the petitioners in a false criminal case, the present FIR has been registered.

Counsel for the petitioners has further argued that despite the report having been submitted by the ASI, Rajinder Singh and the SHO, Police Station Mullana and the approval of the report by the DCP, Ambala (Rural), the FIR has been registered, which is a total abuse of process of law. The complainant has intentionally improved her version so as to give a serious colour to the complaint/alleged incident dated 22.01.2013. Though the alleged incident is of 22.01.2013, but in order to invoke the offence under Section 354 IPC, the complainant has improved the allegation that “they had put hand on my breast and torn my clothes” so that the petitioners can be made to face trial for such offence as well. Further, the matter has already been looked into by the Human Rights Commission, Haryana as well and stricture against the police officials was passed. The police personnel have been directed to compensate the petitioners to the tune of Rs.25,000/- for misusing their authority. Thus the repeated police reports and the order passed by the Commissions duly establishes the false story propounded by the complainant.

On the other hand, learned counsel appearing on behalf of

totally based on the incident so occurred. The petitioners have not only assaulted the complainant, rather have outraged her modesty which has duly been detailed in the complaint.

Similarly, learned State counsel states that the trial in the case is at advance stage and all the prosecution witnesses have been examined in the case. Therefore, no action is required to be taken in the case, and the present petition is rendered infructuous. Moreover, it is on the basis of evidence, it would be established as to whether the petitioners are guilty of outraging the modesty, for which, the prosecution have to prove its case.

I have heard learned counsel for the parties.

In the initial version (Annexure P-1) where the complaint was submitted by respondent No.2, the relevant extract of allegations reads as under:-

“1. That the aforesaid persons came to my house on 22.01.2013 and started hurling abuses. On my objection, I was misbehaved and I was also given a push. My children were pushed off the cot. When I raised the noise, the aforesaid persons while hurling a threat to eliminate me and my children and my husband fled away from the spot.

2. That the aforesaid persons while leaving threatened that I cannot cause any harm to them, since they have strong connections in the high-ups. When I said that I would approach the police on which the aforesaid persons retorted that have strong police connections and I would not be able to get the report against them.”

The aforesaid complaint was looked into by the ASI Rajinder Singh, Police Station Mullana and he submitted his report dated 08.03.2013 which is further accompanied with the statements of the respectable persons

of the village as well as the members of the opposite parties. During enquiry, the allegations levelled against the petitioners-accused by the complainant were found baseless and without any truth. The family of the complainant is in habit of making such complaints repeatedly and on verification, no truth was found in the contents of the complaint and, therefore, the same was liable to be consigned to the record room.

The statement of Punnu Ram, who is father-in-law of the complainant, was also recorded, which reads as under:-

“It is stated that I am resident of aforesaid address and I am an old person. I am labourer by profession. On 22.01.2013, at about 8-9:00 AM in the morning, a dispute has taken place, between Nathu Ram S/o Punnu Ram on one side and Jasmer Singh & Mangat Ram Ss/o of Kura Ram etc. on the other side on account of construction of a nalli by the Panchayat in the village. Both the parties had hurled abuses upon each other. Jasmer Singh and Mangat Ram and their wives were hurling the abuses. In my presence no beatings were given to Angrejo Devi. Only a verbal duel had taken place between the parties and both the parties had gone to the police station. I have got my statement recorded.”

Thus Punnu Ram has not supported the incident and had rather specifically stated that in his presence no such beatings as alleged were given to Angrejo Devi i.e. respondent No.2, but in her statement, respondent No.2 has reiterated the contents of the initial complaint which was looked into by the ASI as well as by the SHO, Police Station Mullana (Annexure P-5) dated 14.04.2013. The statement of respondent No.2-Angrejo Devi reads as under:-

“It is stated that I am the resident of aforesaid address and I am a housewife. On 22.01.2013, I had made a complaint

against Mukesh and Munish sons of Mangat Ram, Dharambir S/o Jasmer Singh, Rameshwar S/o Jasmer Singh, Sanjeev Kumar S/o Balbir Singh caste Harijan R/o Village Ponti as they had hurled abuses upon me and they had given me beatings. I had not got myself medical examined. Action against the said persons may please be taken. I have heard my statement when the same was readover to me and it is correct.”

In order to have comparative analysis between the initial complaint made by respondent No.2, statement of Punnu Ram and statement of respondent No.2-Angrejo Devi, it would be necessary to reproduce the contents of the FIR (Annexure P-7), which reads as under:-

“Sir, it is humbly submitted that an application dated 21.06.2013 was received in the police station, the contents of which are as under: “To, SHO P.S. Mullana (Ambala), Subject: Application against Mukesh S/o Mangat Ram, Munish S/o Mangat Ram, Dharambir S/o Jasmer, Rameshwar S/o Jasmer, Sanjeev S/o Balbir, caste Harijan R/o Vill. Ponti for committing physical assault and causing beatings. Sir, it is humbly submitted that I Angrejo Devi wife of Balwinder Kumar am permanent R/o Vill. Ponti, Tehsil Barara, Distt. Ambala. On 22.01.2013 aforesaid persons at about 8.30 AM, physically assaulted me and they put hand on my breast and torn my clothes. On raising protest they threatened to eliminate me. Earlier also they committed the incident on 2-3 times but I kept mum. Expecting that they themselves would mend their ways. But when these persons did not mend themselves I was constrained to made this report to the police. It is therefore humbly prayed that strict legal action may please be taken against the aforesaid accused persons and justice may please be got imparted to me. I shall be highly thankful. Sd/- Angejo Devi Dt. 19.06.2013. Mob.9813408548.”

The perusal of the initial complaint as well as the subsequent complaint of respondent No.2 does show that the alleged incident and the time remained the same i.e. 22.01.2013, whereas in the initial version, she has made a complaint that she was assaulted by the petitioners by giving a push, but in the subsequent version as recorded in the FIR No.133 dated 21.06.2013 under Sections 354/406/34 IPC, she has improved her version to the extent that the petitioners have put hand on her breast and torn her clothes. There is a complete improvement in the FIR and even in the version which is the basis of FIR. She has not specifically stated that which of the accused has physically assaulted and put his/their hand on her breast and torn her clothes, which raises a very serious doubt about the contents of the FIR. The version is totally improved, obviously so as to give a serious look to the incident. The DCP had looked into the report submitted by the SHO, Mullana and has approved & seen the report. After seeing the report, the same was filed on 22.04.2013 as is clear from Annexure P-5. Even the matter has been looked into by the Human Rights Commission, Haryana and in its order dated 06.10.2016, it has found the police officials negligent for dereliction of duty and indiscipline for causing violation of Human Rights of the petitioners by implicating them in a complaint and concealing the earlier report submitted in the case. Rather it is due to fake complaint submitted by the complaint, the police had to face strictures from the State Human Rights Commission, Haryana.

Thus, this Court finds that the FIR in question is nothing but a total abuse of process of law and the petitioners cannot be made to face trial when the FIR from the face of it has been duly looked into by the police

alleged incident and had not supported the complaint.

In view of above, the present petition is allowed. The F.I.R. No.133 dated 21.06.2013 registered under Sections 354/506/34 of IPC at Police Station Mullana (Annexure P-7) along with all subsequent proceedings initiated therefrom including order dated 19.08.2015 (Annexure P-8 colly) are quashed qua the petitioners being motivated by the complainant so as to give a serious colour to the alleged incident.

(HARI PAL VERMA)
JUDGE

28.05.2019

sanjeev

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No