

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M-41264 of 2018
Date of Decision: November 06, 2019.

Radhey Shyam

.....Petitioner

versus

Bhim Singh

.....Respondent

CORAM: HON'BLE MR.JUSTICE ANIL KSHETARPAL.

Present: Mr.H.P.S.Ghuman, Advocate, for the petitioner.

Mr.Pawan Kumar Hooda, Advocate, for the respondent.

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Anil Kshetarpal, J. (Oral)

The petitioner-accused No.1 prays for quashing of Criminal Complaint No.04-01 of 2017 dated 10.01.2017, filed under Sections 466, 469, 471, 323, 342, 506, 120-B IPC and consequential summoning orders (Annexures P-14 & P-15).

The substances of the allegations made in the complaint are in para Nos.3 & 4 of the complaint, which are extracted as under:-

“3. That the accused No.1 had filed a criminal revision against the complainant in the court of Sh.Parveen Kumar Lal, Ld.A.S.J., Panipat in which summon for appearance of the complainant were issued on 18.10.2006 for appearance in the Court for 11.11.2006. The summons were forwarded to the Court of A.C.J. S.D. Safidon for service, but the summon could not be served as the name of the father of Bhim Singh was written as Nand Lal in the summon. After that the accused No.1 conspired with

the other accused and got fabricated false summons, shown as issued from the court of A.S.J., Panipat against the complainant. The summons were shown as given dasti to the accused No.1 and which were got executed by the accused No.2 on 6.11.2016. To execute/serve the false and fabricated summons, the accused No.2 alongwith six other unknown persons went to the village Morkhi on 6.11.2016 at about 7.00 a.m. in a Balarow Jeep. The accused No.2 informed the complainant that there were warrant of arrest against the complainant. The complainant requested the accused No.2 to show him the arrest warrant and also to disclose his identity. Without showing the arrest warrant and his identity, the accused No.2 with the help of other accused, forcibly put the complainant in the jeep and brought the jeep near Police Post Ludana and two persons went to the police post and came back after few minutes. After that the jeep was brought near the police station Pillukhera and the jeep was stopped at the main road and three persons went to the police station and within a short period one of them came back. Then the jeep was brought to Safidon and after stopping the jeep near General Hospital, Safidon, two persons were gone to P.S.Safidon and came back in a short period. Then the jeep was brought to Safidon-Panipat road. In the jeep, the complainant was given beating and forcibly compelled the complainant to put his

signatures on the summons, allegedly issued by the court of A.S.J. Panipat. After proceedings about 4-5 kilometer towards Panipat, the complainant was compelled to alight from the jeep. The complainant was given threat to pay Rs.40,00,000/- to the accused No.1 and to get the matter compromise, failing which the complainant will be murdered. The complainant had fully seen the unknown persons and he can identify them.

4. That the complainant had suspected some foul game in the service of alleged summon, and to know the true facts he had got information through R.T.I. regarding the alleged summon from the courts of Panipat and Safidon. And on the receipt of information from the courts, it was found that no dusti summons were ever issued from the Court of Panipat. It was also informed that no summons were received dusti from Panipat in the court at Safidon. However, the complainant has come to know that summons duly served were given in Court of A.S.J., Panipat”.

The learned Magistrate after appreciating the material which has come on record, decided to issue process as required under Section 204 Cr.P.C.

Learned counsel for the petitioner submits that in fact summons were issued against the respondent-complainant and there is no specific allegation against the petitioner with regard to beating.

On the other hand, learned counsel for the respondent while

referring to the order passed by the learned Magistrate, has pointed out that no summons were issued by any competent court for service on the complainant-respondent, as alleged for the date fixed.

Still further, the learned Magistrate has taken into consideration the documents filed in the preliminary evidence. The order passed by the learned Magistrate is detailed one.

The jurisdiction of the Court while entertaining petition under Section 482 Cr.P.C. is limited. The parameters for quashing of criminal prosecution are well recognized. In the considered view of the Court, present case involve disputed questions of facts which can only be adjudicated by the Court after the parties lead their evidence. Hence, the petition is disposed of relegating the petitioner to the remedy available before the learned Magistrate where case is already pending.

November 06, 2019

mohinder

(ANIL KSHETARPAL)

JUDGE

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