

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 06.12.2019

1. CRM-M-9096-2012 (O&M)

Parminder Singh

....Petitioner

Versus

Ravinder Singh

....Respondent

2. CRM-M-24906-2012 (O&M)

Sandeep Kumar and others

....Petitioners

Versus

Ravinder Singh 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 (in both cases).

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

Mr. R.S. Bains, Advocate
for the respondent (in CRM-M-9096-2012) and
for respondent No.1 (CRM-M-24906-2012).

ARVIND SINGH SANGWAN, J.

This order shall dispose of aforementioned two petitions praying for quashing of criminal complaint No.110/2011 dated 20.01.2011 (Annexure P-1) filed under Sections 452, 382, 427, 341, 342, 506, 148, 149 of the Indian Penal Code (for short 'IPC') titled as Ravinder Singh Vs. Sandeep Kumar and others and the summoning order dated 08.07.2011 (Annexure P-2) passed by the Additional Chief Judicial Magistrate, Amritsar, vide which the petitioners had been summoned to face the trial under Sections 452, 380 read with Section 149 IPC as well as all the consequential proceedings arising therefrom.

Brief facts of the case are that respondent-complainant Ravinder Singh filed the aforesaid complaint against the petitioners and others accused persons, with the allegations that one Gurdev Singh is running cable operator business in the name of M/s God Father Communication at Amritsar. On 27.12.2010, the complainant went to meet Gurdev Singh, but he was not there and the petitioners and other accused persons came at the shop of Gurdev Singh and forcibly and illegally entered the premises, with the help of police and wrongfully confined Raju Sahidev and Naveen Singh in a room by breaking the cabins of M/s God Father Communication and destroyed all the network instruments and while leaving, took away many electronic equipments, as detailed in the complaint, along with cash of Rs.23,455/-.

The trial Court, thereafter, vide impugned order dated 08.07.2011, summoned the petitioners and other accused persons, after recording the statement of CW1-complainant and five other witnesses i.e.

CW2 Gurdev Singh, CW3 Naveen Singh, CW4 Shaminder Singh, CW5 Raju Sahidev and CW6 B.S. Chohan, photographer, who had deposed on the lines of version given in the complaint. The impugned summoning order reads as under: -

“The present complaint has been filed by the complainant alleging that Gurdev Singh son of Teja Singh was running a Cable operator business in the name of M/s God Father Communication at Shop No.331-332, Majitha Road, Opposite Tung Bala Gate, Amritsar vide licence issued by the Government of India bearing No.337 (Head Post Office), and Gurdev Singh also hired other channels through agreement dated 1.11.2010. It has been further alleged that Raju Sahidev, Naveen Singh, Sahil and Sunil Kumar were employees of Gurdev Singh working with him at his above said premises. On 27.12.2010 at about 2.30 p.m., the complainant went to meet Gurdev Singh at his premises and Gurdev Singh was not there as he had gone to Delhi for business purpose. At about 3.00 pm accused Sandeep Kumar, Kuldeep Singh, Parminder Singh, Sarabjit Singh alias Raju and his driver Gulzar Singh, Arjan Singh, ASI Manjit Singh, HC Baljinder Singh and Constable Raghbir Singh came to the shop of Gurdev Singh and forcibly and illegally entered in the said premises and with the help of police wrongfully confined Raju Sahidev and Naveen Singh in a room and broken the cabins of God Father Communication and destroyed all the cable network instruments and took away some articles as fully mentioned in the complaint and they also threatened the workers and the complainant if they would dare to report or restrain them from doing so, they would be killed. It has been further alleged that all the accused in furtherance of their common intention with accused Sarabjit Singh Raju who had also two Gunmen who

were standing on the main gate of the shop and out of stolen articles, some articles were put in car bearing No.PB-02-BG-0010 and some articles in Car bearing No.PIP 9 by accused Sandeep Kumar and Arjan Singh. It has been further alleged that in the said premises, Gurdev Singh installed CCTV Camera and the said high handedness of the accused was recorded in the above said camera and photographs of said CCTV camera were attached. It has been further alleged that this incident was witnessed by Shaminder Singh, who stopped at the place of incident while he was passing from there, Raju Sahidev, Naveen Singh, Sahil and Sunil Kumar. Thereafter, the complainant informed the said incident to Gurdev Singh and thereafter, the matter was reported to the police but no action was taken by the police. Hence, the present complaint has been filed.

Thereafter, in preliminary evidence, the complainant besides himself appearing as his own witness as CW1, also examined five other witnesses i.e. CW2 Gurdev Singh, CW3 Naveen Singh, CW4 Shaminder Singh, CW5 Raju Sahidev and CW6 B.S. Chohan, photographer. Thereafter the complainant closed his preliminary evidence.

From the preliminary evidence adduced by the complainant and the allegations contained in the complaint, prima facie, there are sufficient grounds to summon the accused Sandeep Kumar, Kuldeep Kumar, Parminder Singh, Sarabjit Singh, Gulzar Singh, Arjan Singh, ASI Manjit Singh, HC Baljinder Singh, Constable Raghbir Singh of the offence punishable under Sections 452, 380 read with Section 149 IPC, whereas, no offence is disclosed to have been committed by the remaining accused and accordingly, the complaint against remaining accused is ordered to be dismissed. Accused Sandeep Kumar, Kuldeep Kumar, Parminder Singh, Sarabjit Singh,

Gulzar Singh, Arjan Singh, ASI Manjit Singh, HC Baljinder Singh, Constable Raghbir Singh, as such, are ordered to be summoned for 4.11.2011 to face trial under Sections 452, 380 read with Section 149 of Indian Penal Code subject to filing of copy of complaint, PF/DM within two days.”

Both these petitions have been filed challenging the impugned criminal complaint and the impugned summoning order dated 08.07.2011.

Learned senior counsel for the petitioners has argued that the complaint has been filed as a counter-blast to FIR No.302 dated 27.12.2010, which was registered against Gurdev Singh Bhullar under Sections 51, 52A, 63 of the Copy Rights Act, 1957 and Sections 420 & 120-B IPC, on the complaint given by Sandeep Kumar (*petitioner No.1 in CRM-M-24906-2012*). It is further argued that the trial Court had passed the summoning order, without examining the CCTV footage as well as without appreciation of the evidence on record.

In reply, learned counsel for the respondent-complainant has argued that there is sufficient evidence on record, which prima facie proves the commission of offence at the instance of the petitioners.

It is worth noticing here that both these petitions are pending since 2012 and therefore, the same are taken up in the urgent list for final disposal.

After hearing learned counsel for the parties, I find that 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. The mere fact that the counter-FIR, which has been registered by one of the accused person

namely Sandeep Kumar against the complainant, is no ground to quash the impugned complaint, as the trial Court had passed the summoning order, after appreciating statement of the complainant and five other eyewitnesses and had also relied upon the supporting evidence i.e. CCTV footage and the photographs, 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 both these petitions are 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