

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

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CRM-M-22419-2019 (O & M)
Date of Decision:16.05.2019

Baljit Kaur and another

...Petitioners

Versus

Balram Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. L.S. Mann, Advocate
for the petitioners.

MANOJ BAJAJ, J.

Petitioners have filed this revision petition under Section 482 Cr.P.C. for quashing of the Complaint bearing CIS Case No.COMI/37/2017 dated 29.11.2017 Annexure P-5 titled as “Balram Singh vs. Gurdawar Singh and another” as well as order dated 8.4.2019 Annexure P-8 vide which the petitioners have been summoned to face trial u/s 323, 334 read with Section 34 IPC.

Learned counsel for the petitioners contends that the DDR dated 07.08.2017 got recorded by the complainant ended in cancellation. It is pointed out that the FIR at the instance of the petitioners was recorded and in the final report (Annexure P-3) dated 08.10.2017, it was specifically mentioned that the version of the complainant-Balram Singh was dismissed on the ground that the injuries suffered by him could be possible because of

friendly hand. This conclusion was based on the opinion allegedly given by the doctor.

The argument of the learned counsel is not plausible as the conclusion drawn by the Investigating Officer in respect of the DDR got recorded by the complainant does not dispute the fact that the injuries were suffered by Balram Singh. Whether the same were caused by someone else or are friendly in nature is a matter to be adjudicated upon by the Court. Even otherwise, the Court while passing the summoning order has passed a detailed order after examining the evidence of the complainant including the medical evidence. The doctor had appeared before the Court and the MLR were also proved before the Court. At the stage of summoning, the Court is only to satisfy itself regarding the prima facie commission of an offence, which in the given facts and circumstances is made out. It is further contended that the learned Court has not complied with the provision of Section 210 Cr.P.C. as the complaint was filed on 29.11.2017 and it was incumbent upon the trial Court to stay the proceedings as the investigation was pending. Again this argument is without any merit as according to the learned counsel, the investigation stood complete on 08.10.2017 and the present complaint was filed when the version of Balram Singh already stood dismissed by the police in the final report (Annexure P-3). Since there is version and cross-version, it is not a case where a complainant should be deprived of from establishing his case.

Learned counsel for the petitioners has relied upon the judgment passed by this Court in the case of **Kuldip Singh versus Hukam**

Chand, 2008 (1) RCR (Criminal) 370. The facts of the said case are

entirely different as the trial Court had itself called the report of the Investigating Officer, however, before receiving the same, the Court had proceeded to pass the summoning order. It was a case where the complainant was common i.e. in FIR as well as in the complaint. Here in the present case, there are cross versions, the version of the complainant-Balram Singh was dismissed by the police and, therefore, there were compelling reasons for the complainant Balram Singh to institute the complaint under Chapter XV (Cr.P.C.).

Learned counsel has also relied upon the judgment passed by the coordinate Bench of this Court in **CRR-4833-2015 titled as Sukhdev Singh versus State of Punjab and another, decided on 03.07.2018.**

In the said case also the FIR and the complaint was by the same person and the police after investigating the FIR submitted the cancellation and trial Court proceeded to summon the accused on the strength of pre-summoning evidence in the complaint case. The Court had intervened as the cancellation report filed by the police in the FIR case, which stood clubbed with the complaint case was not examined before framing of the charges.

In the present case, the facts are entirely different and these judgments are not applicable.

In view of the above, no ground is made out for interference.

Dismissed.

16.05.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No