

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

**CRM-M-7352-2014 (O&M)
Date of Decision: 21.2.2019**

Harmail Singh and another

.....PETITIONER(s).

VERSUS

Lakhwinder Singh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Anurag Chopra, Advocate
for the petitioner.

Mr. Karamveer Singh Banyana, Advocate,
for the respondent.

RAJ SHEKHAR ATTRI, J.

This is a petition under Section 482 of the Code of Criminal Procedure for quashing the complaint titled Lakhwinder Singh v. Harmail Singh and others (Criminal Complaint No.424/25.9.2012) (Annexure P-5) filed under Sections 307, 325, 506 of Indian Penal Code read with Sections 3 & 4 of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 pending in the Court of Judicial Magistrate, 1st Class, Ludhiana along with summoning order dated 11.11.2013 (Annexure P-6).

This case has checkered history.

Petitioner No.1-Harmail Singh was the Sarpanch of village

Phallewal, Tehsil and District Ludhiana while petitioner No.2 is the husband of Bhupinder Kaur who had been elected as Panch of that village. The complainant was running a depot under Public Distribution System (PDS) No.95 in village Gujjarwal, Tehsil and District Ludhiana.

It is the case of the petitioner that on account of fraudulent manner in which the complainant misappropriated and siphoned the food grains meant to be distributed to the poor people of the village under public distribution system, a complaint was received in the office of Gram Panchayat, village Phallewal, as such, the petitioner being Sarpanch inspected the depot on 26.3.2012 and detected some serious irregularities. The inspection report was forwarded to District Food & Supply Controller, Ludhiana. In pursuance thereof, the supply of food grains to the depot of the complainant was suspended.

It is the case of the petitioner that the complainant while harbouring a grudge against the petitioner and also to seek revenge, lodged FIR No.16 dated 24.2.2013 registered under Sections 342, 323, 392, 397, 402, 506, 34 of Indian Penal Code read with Sections 3 & 4 of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. During the inquiry, the investigating agency found that the allegations levelled in the FIR are false and incorrect and they recommended for cancellation of the FIR. The complainant filed a private complaint (Annexure P-5) under Sections 308, 325 and 506 of Indian Penal Code and 3 & 4 of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. However, another FIR No.39 dated 11.5.2012 was

registered the complainant under Sections 379 and 411 of Indian Penal Code at Police Station Jodhan, District Ludhiana Rural.

I have heard the learned counsel for the parties and gone through the record.

Although strong suspicion has arisen with regard to receipt of the injuries in an accident to the complainant yet this is a matter of record and evidence. Both the parties yet to adduce evidence and it shall be considered only after conclusion of the trial as to whether which version is true and which version is wrong.

The Hon'ble Supreme Court in **State of Haryana and others v. Ch. Bhajan Lal and Ors.**, 1992 AIR (SC) 604 has made the following observations:-

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and

to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Whether the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Whether, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation

is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

No case is made out for interference by this Court.

Dismissed.

However, nothing expressed above shall affect the merits of the case.

February 21, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>