

CRM-M-8025 of 2014

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

CRM-M-8025 of 2014
Date of Decision: 26.02.2019

Didar Singh and others

....Petitioners

Versus

Pargat Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. B.D. Sharma, Advocate,
for the petitioners.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. Tushar Sharma, Advocate,
for Mr. R.S. Bajaj, Advocate,
for respondent No.1.

RAMENDRA JAIN, J. (ORAL)

Through instant petition under Section 482 Cr.P.C. prayer has been made for quashing criminal complaint bearing COMI No.50300181/2008 dated 30.09.2008 (Annexure P-1) titled as “Pargat Singh v. Didar Singh and others” and order dated 24.08.2013 (Annexure P-2) of the learned Judicial Magistrate Ist Class, Jalandhar, summoning the petitioners to face trial under Sections 323, 325, 149 IPC and all subsequent proceedings arising therefrom.

Briefly, respondent No.1-complainant filed complaint under Sections 323, 325, 308, 148, 149 IPC against the petitioners on the allegations that at about 8:30 a.m. On 26.09.2006, when he was getting

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in his favour, Prithi Singh along with Didar singh, Lakhwinder Singh, Sodhi came on the spot and caught hold of him proclaiming that they have no respect of any Court order. Lakhwinder Singh picked up a brick from the ground and hit on head of respondent No.1. Other accused dragged him in front of his house. When wife and daughter of respondent No.1 came out to rescue him, they were also given beatings by Harinder Kaur, Surjit Kaur and Prince, who were rescued by his son-in-law Hariqbal Singh.

After recording preliminary evidence, petitioners have been summoned by the trial Court vide impugned order dated 24.08.2013 (Annexure P-2) to face trial under Sections 323, 325, 149 IPC.

Heard,

Having given thoughtful consideration to the rival submissions, this Court finds that the instant petition merits acceptance for the reasons to follow.

Allegations of respondent No.1 against the petitioner in the impugned complaint (Annexure P-1) are almost verbatim the same recorded in DDR No.15 dated 01.10.2006. No action was taken by the police in the aforesaid DDR. Investigating Officer disbelieving the said version, filed final report under Section 173(2) Cr.P.C. against respondent No.1 and his family members, which finally culminated into their conviction under Sections 326, 326/34, 323, 323/34 and sentencing to undergo rigorous imprisonment for a maximum period three years vide judgment of conviction and order of sentence dated 07.03.2013.

The police kept on sleeping over the said DDR for seven years. It all of a sudden awoke out of great slumber and final final report under Section 173(2) Cr.P.C. against the petitioners on the basis of

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aforesaid DDR, which action of the police has been condemned vide order of even date passed in CRM-M-8550 of 2014.

More so, respondent No.1 in his defence during trial in FIR No.105 dated 28.09.2006 lodged by respondent No.8 under Section 323, 325, 149 IPC, levelled similar allegations against the petitioners, verbatim to the impugned complaint and also led evidence, but the trial Court while convicting respondent No.1 and his family members disbelieved his defence. Therefore, filing final report under Section 173(2) Cr.P.C. after seven years is nothing, but dis-honest and *mala fide* attempt of the police in connivance with respondent No.1 to falsely put the petitioners on trial.

Moreso, as per provisions of Section 468(2) Cr.P.C., limitation to file complaint under Section 323 IPC is one year, whereas impugned complaint was filed after two years of the alleged occurrence. Therefore, action of respondent No.1 is hopelessly time-barred.

In view of discussion made above, petition is allowed. Impugned complaint (Annexure P-1) as well as summoning order dated 24.08.2013 (Annexure P-2) and all subsequent proceedings arising therefrom is quashed.

February 26, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No