

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

**CRM No.M-5469 of 2018 (O&M)
Date of Decision: August 22, 2019**

Mukhtiar Singh and others

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.S.Thind, Advocate
for the petitioner.

Mr.Sidakmeet Singh Sandhu, AAG, Punjab
for the respondent-State.

None for respondent No.2.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of complaint CRN No.PBA5030078562017 dated 06.04.2017 under Sections 447, 427 and 34 IPC, P.S. Jandiala Guru, pending in the Court of learned Judicial Magistrate Ist Class, Amritsar and summoning order dated 12.12.2017 along with all subsequent proceedings thereof.

Notice of motion was issued. Learned State counsel appeared and contested the petition. Earlier, learned counsel for respondent No.2 was appearing but today, none has put in appearance on behalf of respondent

No.2.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

The perusal of the record shows that earlier on the similar facts, FIR No.185 dated 05.09.2013 under Sections 447, 427 and 34 IPC was got registered. A petition was filed for quashing the proceedings of that FIR and in the presence of learned counsel for complainant-respondent No.2 Kashmir Singh, the FIR was quashed vide order dated 06.12.2016 by this Court in CRM No.M-43601 of 2015. After quashing of the FIR, on the similar facts, again a complaint was filed and there is mention in the complaint that accused are alleging that FIR has been quashed by this Court but the complainant stated in the complaint that FIR has not been quashed yet. This complaint is dated 06.04.2017.

The perusal of the complaint itself shows that all the allegations levelled in the complaint are the same as levelled in the FIR. As the FIR was quashed in the presence of learned counsel for the complainant, therefore, the complainant is supposed to know that FIR has already been quashed. Learned JMIC, Amritsar, also without getting the report regarding the FIR case, has passed the summoning order in routine.

Keeping in view the above facts that on the similar facts, the FIR has already been quashed on merit, therefore, on the same facts, the complaint is not maintainable and the accused-petitioner cannot be summoned in the complaint case. The filing of the present complaint is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. CRN No.PBA5030078562017 dated 06.04.2017 under Sections

12.12.2017 and all subsequent proceedings arising therefrom, are hereby quashed.

August 22, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No