

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

**CRM-M-20303-2012 (O&M)
Decided on : 13.02.2020**

Nand Singh and others

. . . Petitioner(s)

Versus

State of Punjab and another

. . . Respondent(s)

CRM-M-21199-2012 (O&M)

Mohinder Singh and another

. . . Petitioner(s)

Versus

State of Punjab and another

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Munish Gupta, Advocate
for the petitioner(s).

Ms. Jaspreet Kaur, Asstt. AG, Punjab.

Mr. Mohit Jaggi, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (Oral)

This order shall dispose of CRM-M-20303-2012 and CRM-M-21199-2012, as both the petitions emanate from the same FIR No.03, dated 06.01.2011. However, the facts are being extracted from CRM-M-20303-2012.

The prayer in the petitions is for quashing of FIR No. 03, dated 06.01.2011, under Sections 420, 447, 498-A, 506, 120-B IPC, Police Station Bhadson, District Patiala (Annexure P-6) as well as report under Section 173 Cr.P.C. (Annexure P-7) and all subsequent proceedings arising therefrom.

The case of the petitioners is that due to the strained relations

between respondent No.2 – complainant and her husband - Jagroop Singh, who is son of petitioner No.1 (in CRM-M-20303-2012), the instant FIR has been lodged in order to wreak vengeance on all the petitioners, who are close relatives of Jagroop Singh. It has been urged that a perusal of the FIR reveals that on the same set of allegations, FIR No. 28, dated 07.05.2005, was also registered under Sections 420, 494, 495, 120-B IPC, prior in time to the FIR in question i.e. FIR No. 03, dated 06.01.2011.

It has been submitted that after the registration of the FIR, the petitioners had faced trial and earned an acquittal, as the trial Court held that prosecution had failed to prove the charges against them. However, respondent No.2 (complainant), moved an application thereafter dated 22nd October, 2010, on the basis of which a second FIR No. 03, dated 06.01.2011 was filed on the same set of allegations with the addition of offence under Sections Section 447, 420 IPC, which clearly indicated that the petitioners on account of being acquitted by the trial Court were now being sought to be prosecuted on the basis of an exaggerated and fabricated version with the sole intention to cause them harassment. It was submitted that the second FIR is on the same set of allegations and that too after acquittal could not have been filed and was not maintainable.

Learned counsel for respondent No.2 has filed his reply. While opposing the submissions of the learned counsel for the petitioners, he has urged that both the FIRs i.e. FIR No. 28, dated 07.05.2005 and FIR No 03, dated 06.01.2011, are on different footing altogether. It has been further stated that the acquittal of the petitioners for certain offences does not give them the right to get away with certain other offences, for which they were not charged within the earlier proceedings in FIR No. 28, dated 07.05.2005.

I have heard learned counsel for the parties and perused the respective case files and the other material on record.

On a perusal of both the FIRs, it is evident that both the FIRs have arisen from the same set of allegations *qua* the petitioners. There are some additional facts and allegations in the second FIR, which also date back to a period prior to the first FIR. It would be pertinent to mention here that the respondent No.2 has not been able to point out any allegation or incident, subsequent in time to the lodging of the first FIR.

It goes without saying that if the underlying substance and foundation of two FIRs is based on the same set of facts and allegations, the lodging of the subsequent FIR would be perverse in the eyes of law. More so, when the complainant did not at any time impugn the order framing charges under Sections 494, 420, 406, 120-B IPC in case FIR No. 28, dated 07.05.2005. Further, for reasons best known to respondent No.2 – complainant, the subsequent allegations were not raised at the time of the earlier trial in FIR No. 28, dated 07.05.2005. Respondent No.2 – complainant cannot be permitted now to raise any new allegations without a subsequent incident having occurred after lodging of the first FIR.

Admittedly, the petitioners have faced trial in case FIR No. 28, dated 07.05.2005 and have also been acquitted in it by the trial Court. The appeal preferred against the order of acquittal by respondent No.2 – complainant also stands dismissed. The mere addition of Sections 420, 447 IPC cannot be a sufficient ground for the petitioners to face a new trial on the same set of allegations as it will amount to double jeopardy.

Section 300 of Cr.P.C. is reproduced below for ready reference:

“300. Person once convicted or acquitted not to be

tried for same offence.

(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub- section (1) of section 221, or for which he might have been convicted under sub- section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub- section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last- mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first- mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 , (10 of

1897) or of section 188 of this Code. Explanation.- The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

It is apparent that respondent No.2 – complainant is wanting the petitioners to face trial for a different charge, which ideally should have been made out against them in the earlier FIR and trial.

As a consequence of the aforementioned discussion, the instant petitions are allowed. Consequently, FIR No. 03, dated 06.01.2011, under Sections 420, 447, 498-A, 506, 120-B IPC, Police Station Bhadson, District Patiala (Annexure P-6) as well as report under Section 173 Cr.P.C. (Annexure P-7) and all subsequent proceedings arising therefrom, *qua* the petitioners are quashed.

(MANJARI NEHRU KAUL)
JUDGE

February 13, 2020

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No