

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

(1) CRM-M-2486-2018(O&M)

Jaimal Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(2) CRM-M-2346-2018(O&M)

Banta Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

Date of Decision:-10.2.2020

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.H.S. Bath, Advocate
for the petitioners in both petitions.

Rana Harjasdeep Singh, DAG, Punjab.

Mr.P.B.S. Goraya, Advocate
for the respondent No.2 in both petitions.

H.S. MADAAN, J.

By this order, I shall dispose of two petitions i.e. CRM-M-2486-2018 filed by petitioners – Jaimal Singh and others and CRM-M-2346-2018 filed by petitioner Banta Singh and another seeking quashing of Complaint Case No.76 dated 8.9.2014 titled as “Satnam Singh Versus Mukhtiar Singh and Ors.” under Sections 307, 326, 447, 148, 149 IPC and 25 of Arms Act in which Judicial Magistrate Ist Class, Patti had

summoned the petitioners as accused for offences under Sections 326, 447, 148, 149 IPC and 25 of Arms Act vide order dated 22.7.2015 as well as the judgments dated 1.12.2017 passed by the Court of Additional Sessions Judge, Tarn Taran vide which the said Court has directed summoning of the petitioners and other accused to face trial for the offence under Section 307 IPC dismissing the revision petition of the petitioners and other accused for setting aside of the summoning order.

As per the version of the petitioners on 4.7.2010 at about 8:30 a.m. when the petitioner party was working in the fields, due to some land dispute Satnam Singh – respondent No.2 attacked the petitioner party in which son of the petitioner No.1, namely Sarwan Singh was murdered; an FIR No.75 dated 4.7.2010 for the offences under Sections 302, 307, 148, 149 IPC and Sections 25 and 27 of the Arms Act was registered at Police Station Valtaha, District Tarn Taran against respondent No.2 – Satnam Singh and 10 other persons; the trial of that case has already been concluded and the case is fixed for final arguments; said Satnam Singh accused had manipulated injuries on his person and got himself admitted in Civil Hospital, Patti, however, he did not get himself medically examined; the doctors at Civil Hospital, Patti had recorded a few injuries on the person of Satnam Singh; said Satnam Singh had left the hospital at 11:20 a.m. without informing the doctors, then he got himself admitted in Civil Hospital, Tarn Taran on 5.7.2010 at 3:20 p.m. and he was medically examined there and the doctors found 10 injuries on his person; one Karam Singh had filed a criminal complaint in the Court of Judicial Magistrate Ist Class, Patti on 8.9.2010 for the offences under Sections

326, 148, 149 IPC and Section 25 of the Arms Act; Satnam Singh had also filed a revision petition before this Court praying for recording counter version criminal case on the basis of his statement against the petitioner party; reply was filed by DSP, Bhikhiwind stating that a preliminary inquiry had been conducted by the police and the matter was investigated, however, it was found that no cross case was required to be registered; the police had recorded statement of Satnam Singh but found that no cross case was made out; in the complaint filed by Karam Singh, Judicial Magistrate Ist Class, Patti had summoned the accused for other offences except offence under Section 307 IPC; the accused Nos.6 and 7 in the complaint were not summoned; in the meanwhile Karam Singh had submitted an affidavit in the Court of Judicial Magistrate Ist Class, Patti stating that Satnam Singh had not suffered any injury rather injuries on his person were self-suffered and he wanted to withdraw the complaint; Satnam Singh moved an application before Judicial Magistrate Ist Class, Patti praying that he may be allowed to be substituted as complainant since the original complainant Karam Singh had withdrawn the complaint on 20.7.2013; the application was dismissed by the Court observing that there was no provision in criminal law for the substitution of the complainant and the applicant had remedy to file a separate complaint; thereafter, Satnam Singh filed a complaint for the same cause of action before Judicial Magistrate Ist Class, Patti; in the meanwhile, petitioner Jaimal Singh being complainant in the FIR case had filed an application under Section 340 Cr.P.C. in the Court of Judicial Magistrate Ist Class, Patti against the accused contending that Satnam Singh had suffered fake

injuries and had fabricated the story in connivance with other accused so as to mislead the Court.

According to the petitioners, Court of Sessions exercising revisional jurisdiction has no power to summon the accused for the offence under Section 307 IPC. The proceedings under Section 340 Cr.P.C. and trial of accused cannot proceed together since both the orders are contradictory. The petitioners prayed that the petitions be accepted.

Notice of the petitions was given to the respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Section 482 Cr.P.C. deals with inherent powers of the High Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

Firstly, taking up the prayer of the petitioners for quashing of the complaint as well as the summoning order. I have gone through the complaint and the summoning order and apparently I do not see any reason to quash the same. A perusal of the complaint goes to show that the same cannot be said to be not disclosing any cause of action or commission of cognizable offences. The injuries on the person of complainant with firearms and sharp edged weapons etc. are alleged. As the things stand, the complaint cannot be termed to be an abuse of process

of law, though the genuineness of the allegations levelled against the accused would be seen during the trial. As such, I do not find any reason to quash the complaint. Similar is the situation with regard to the summoning order, which is quite detailed and well reasoned. It does not come out to be suffering from any illegality or infirmity or defect apparent on the face of such order. Though this order was challenged by way of filing of revision petition before the Court of Sessions but that too has been dismissed. The judgment passed by learned Additional Sessions Judge, Tarn Taran in that regard also does not come out to suffering from any illegality or infirmity.

Now coming to the grouse of the revisionists that learned Additional Sessions Judge, Tarn Taran exercising the revisional power could not have directed summoning of accused under Section 307 IPC and judgment cited in that regard by Co-ordinate Bench i.e. **Jai Parkash and another Versus Ritu Dalal, 2015(5) RCR(Criminal) 680**. Though under normal circumstances, this contentions raised on behalf of petitioners would have carried weight because the revisional Court can direct the trial Court to re-consider the matter on the basis of material available on the record with regard to summoning of the accused for a particular offence, but here the things are somewhat different because complaint was counter version of the incident regarding which a State case had been registered and was pending trial before the Court of Sessions. Observing that both the cases having arisen out of the same incident and being version and cross version of the incident were required to be tried together, the complaint case had also been committed to the

Court of Sessions though by that time the accused in the complaint case had not summoned for any offence triable by Court of Sessions; however, once the complaint case was committed to the Court of Sessions to be tried along with the State case registered for the offence of murder, which offence is exclusively triable by the Court of Sessions, the revision petitions filed by both the sides came up for hearing before Additional Sessions Judge, Tarn Taran, who disposed of the same vide single judgment observing that sufficient material was there for summoning of accused under Section 307 IPC. The order cannot be faulted for the reason that there was no occasion for the revisional Court to direct the trial Magistrate to reconsider the case for summoning of accused under Section 307 IPC because by that time, the case had already been committed to the Court of Sessions. Learned counsel for the respondent No.2 has referred to judgment **Balveer Singh & Anr. Versus State of Rajasthan & Anr., 2016(2) RCR(Criminal)1006**, wherein it was observed that in terms of Section 193 Cr.P.C., a Court of Sessions can take cognizance only after the case has been committed to it by the Magistrate. However, once the case is committed to it by the Magistrate, the Court of Sessions is empowered to take cognizance acting as a Court of original jurisdiction.

Therefore, the order passed by Additional Sessions Judge, Tarn Taran cannot be held to be illegal for the said reason.

The present petitions do not come within four corners of Section 482 Cr.P.C. Therefore, no interference by this Court with the impugned criminal complaint, impugned judgments and orders is called

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for.

The petitions are, therefore, dismissed.

10.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No