

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

CRM-M-720-2016(O&M)
Date of Decision : 12.3.2020

Varinder Singh and others

.....Petitioners

Versus

Ramandeep Singh and another

.....Respondents

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

Present: Mr.Vivek K.Thakur, Advocate
for the petitioners.

Ms.Benti Kaur, Advocate
for respondent No.1.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

H.S.MADAAN, J. (ORAL)

By way of filing the present petition under Section 482 Cr.P.C., the petitioners/accused Varinder Singh, Jaswinder Singh and Gurjeet Singh seek quashing of complaint filed by respondent No.1 Ramandeep Singh against them titled “Ramandeep Singh Versus Jaswinder Singh and others”, under Sections 181/465/468/469/471/120-B IPC pending in the Court of Judicial Magistrate Ist Class, Jalandhar and summoning order dated 2.7.2015 passed therein besides the ancillary proceedings.

The petitioners in the petition have raised various pleas touching the merits of the case contending that the complainant –

respondent No.1, who was working as Sarpanch of village Salempur Masandan, Post Office Talhan, District Jalandhar was removed from that post on the basis of inquiry conducted by Executive Engineer, Roop Nagar, where the petitioners had submitted an affidavit, therefore the complainant/respondent No.1 in connivance with Notary had got registered an FIR against the petitioners that the affidavit was not attested by said Notary and that Notary had become witness of the complainant/respondent No.1 stating that he had not attested the affidavit in question; that after registration of the FIR, the matter was inquired into and a cancellation report was filed in the Court. The petitioners had sought cancellation of the FIR by filing a petition before this Court. However, on account of submission of the cancellation report, the petition was withdrawn. Petitioner No.2 Jaswinder Singh has been residing in USA. Respondent No.1 had filed a private complaint with regard to the affidavit in question, where the accused had been ordered to be summoned under Sections 420, 465, 468, 469, 471 and 120-B IPC. Learned Magistrate has summoned the accused in a mechanical manner.

Feeling aggrieved, the petitioners have approached this Court by way of filing the present petition.

Notice of the petition was given and respondents have appeared 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.

Chapter XIX of Cr.P.C. deals with trial of warrant cases by Magistrates. Section 245 Cr.P.C. provides that if upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him. Sub Section (2) provides that nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for the reasons to be recorded by such Magistrate, he considers the charge to be groundless. Therefore, the petitioners could very well avail of remedy of approaching the trial Court seeking their discharge in the case under Section 245 Cr.P.C., placing all the facts and circumstances before the Court but they did not do so.

With regard to the FIR in question, the cancellation report as per own case of the petitioners had been filed in the Court. Though the complainant is opposing the same but then it is for the trial Court to pass appropriate order thereon.

With regard to the complaint and summoning order the petitioners had remedy of filing of a revision petition before the Court of Sessions challenging the summoning order and if they could convince the revisional Court that they had been summoned to face trial in the complaint case without any sufficient reason, the summoning order could be set aside making the complaint in question redundant. But they did not

do so and instead of that rushed to this Court filing the present petition.

While saying so, I find support from **Arvind Kejriwal Versus Amit Sibal and another in Crl.M.C. 5245/2013 and Cr.M.A. Nos.18920-21/2013** decided on 16.1.2014 by Delhi High Court, **Krishna Kumar Variar Vs. Share Shoppe (2010)12 SCC 485, Bhushan Kumar Vs. State (NCT of Delhi), (2012) 5SCC 424** by the Apex Court, **Rajeev Taneja Vs. NCT of Delhi in Crl.M.C. No.4733/2013** decided on 11.11.2013, **Lilliput Kidswear Ltd. and others Vs. Nahar Industrial Enterprises in Crl.M.C.4722/2013** and judgment passed by this Court in CRM-M-31268-2014 titled **'Ramesh Kumar Thind Versus Lakhvir Singh'**, decided on 10.9.2014.

Therefore, the petition stands dismissed accordingly.

However, the petitioners are relegated to the remedy of raising all the pleas before the trial Court at appropriate stage and the trial Court shall deal with such contentions, in accordance with law by passing a speaking order.

12.3.2020

Brij

(H.S. MADAAN)

JUDGE

Whether reasoned/speaking :

Yes/No

Whether reportable :

Yes/No