

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

CRM-M-1753-2021

Date of Decision:22.02.2021

Suresh Chand Garg

.....Petitioner

Vs.

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Sunny Namdev, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conference.

By this petition, the petitioner seeks quashing of the order dated 10.06.2019 (copy Annexure P-1), whereby Criminal Complaint No.666/12.08.2014 has been dismissed by the learned JMIC, Faridabad. He also challenges the order dated 16.06.2020 (copy Annexure P-3), dismissing the revision petition, i.e. CRR No.364 of 2019 filed against that order, by the learned Additional Sessions Judge, Faridabad.

Learned counsel for the petitioner submits that in terms of Section 200 of the Cr.P.C. only a *prima facie* case is to be made out by the complainant and therefore, with the petitioner having examined himself as also another person who was present at the spot (Vikas Singh PW2), the impugned orders have been passed wholly without application of mind and therefore deserve to be set aside and the respondents summoned by the trial court in the complaint submitted by the petitioner.

Having considered the aforesaid contention, firstly, Sections 200 and 202 of the Cr.P.C. are reproduced as follow:-

200. Examination of complainant.—A Magistrate taking cognizance of an offence on complaint shall examine upon oath the

complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—
 (a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or
 (b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192:

Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

201. x x x x x x x x x x x x

202. Postponement of issue of process:-

(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made,-

- (a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or
- (b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub- section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath: Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub- section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer- in- charge of a police station except the power to arrest without warrant.

In the present case, the learned trial court has given the following three reasons for the petitioner having failed to make out even a *prima facie* case against the respondents:-

- i. though he had stated he was present in the District Court at Faridabad, with his counsel, where 2 of the accused came and started abusing him etc., even his own counsel was not examined by the petitioner;
- ii. that he had not even got himself medically examined/or at least no medical record was produced before that court, to show that he had received any injuries as a result of any beatings as alleged;

iii. that even the report submitted by the police upon it having been called upon by that court to do so under the provisions of Section 202 of the Cr.P.C., did not state to the effect that any such criminal assault or interpretation was found to have been made on the petitioner, and that in fact it was the petitioner himself who owed Rs.65,000/-to the father of the accused.

Learned counsel for the petitioner submits that as regards the report under Section 202 of the Cr.P.C., the police only obtained the petitioners' signatures on a blank paper, which were misused thereafter by them.

Even having considered that argument and the possibility of it being correct, however, what learned counsel has failed to explain even before this court is as to why he neither produced his own counsel as a witness to the alleged occurrence, before whom the occurrence is stated to have taken place, nor did he produce any medical evidence to show that he had received any injuries in the occurrence.

Even presuming that no injuries actually took place and he was simply criminally assaulted without any serious injury, or even any minor injury having been sustained, it still does not explain as to why he did not even examine his own counsel at all, as regards the occurrence having taken place in any manner whatsoever.

Hence, simply because he produced one witness in his favour, in my opinion the learned trial court did not err in dismissing the complaint, with the learned revisional court also having taken the same view thereafter.

Consequently, finding no merit in this petition, it is dismissed *in limine*.

February 22, 2021

dharamvir/

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO

Whether Reportable : YES/NO