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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-7519-2021
Date of Decision: 17.02.2021

RAVINDER KUMAR

..... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Ravinder Kumar, Advocate for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

This is a petition praying for quashing of the impugned order passed by the Ld. Trial Court after recording the evidence of the complainant-respondent No.2, his father-Raunki Ram, who deposed as CW-3 and Dr. Hardeep Singh Sethi, (CW-2), who purportedly examined the complainant subsequent to his being assaulted by the petitioner/accused and his unknown accomplices.

2. Grievance of the petitioner is that the evidence and material available on record do not make out a case for initiating the criminal proceedings against him, as the same are absurd and inherently improbable. It has also been urged that father of the complainant is a chronic litigant and the complaint has been motivatedly and falsely filed against the petitioner out of previous monetary dispute and grudge.

3. Reliance of the petitioner is also on the decision of the Supreme Court in the case of **Pepsi Foods Ltd. Vs. Special Judicial Magistrate (1998) 5 SCC 749**, in which it was observed, inter alia:-

“.....summoning of an accused in a criminal case is a serious matter, criminal law cannot be set into motion as a matter of course. It is not that the complainant has bring to only two witness to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and law applicable thereto. He had to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in brining charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of the preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinized the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answer to find out the truthfulness of the allegation or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

4. After having gone through the available material on record and having heard submissions of Ld. Counsel for the petitioner, this Court is of the opinion that no tangible grounds have been made out to quash the impugned Order, or the complaint filed by respondent No.2. It may be mentioned that the complaint was originally filed under Sections 323, 324, 382 and 506 of the IPC. But the Ld. Magistrate in his order impugned herein found that from the available evidence on record, the offence under Section 382 of the IPC was not made out. Consequently, process was issued against the petitioner only for the offence under Sections 323, 324 and 506 of the IPC. The deposition of the complainant pertaining to the time and

manner in which he was allegedly assaulted by the petitioner and his accomplices was undoubtedly rebutted. It was duly corroborated by Medical Evidence led by CW-2- Dr. Hardeep Singh Sethi, who had proved the complainant's MLR, as Exhibit CW/1. He had found the complainant to be suffering from four separate injuries which were all simple in nature. In respect of injury No.2, however, which was an abrasion with bleeding starting from the upper part of the victim's left leg going downwards, the weapon of offence was opined to be some light weight sharp edged one, whereas the three injuries were found to have been caused by blunt weapon.

5. There certainly does not appear to be any manifest perversity in the impugned order passed by the Ld. Magistrate, as he clearly had no reasons to take any contrary view of the matter from the version pertaining to the incident as led before him by way of the complainant's evidence. In fact, the offence under Section 382 was not considered for the purpose of summoning the petitioner as the Ld. Magistrate rightly observed that necessary ingredients to satisfy his existence were not made out in the available evidence.

6. For the aforesaid reasons, this Court finds no ground to interfere with the impugned order passed by the Ld. Magistrate.

7. Dismissed.

17.02.2021

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(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No