

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

CRM-M-6582-2019

Date of decision : 19.09.2022

Satya Narayan

..... Petitioner

versus

Harinder Kumar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Lekh Raj Sharma, Advocate with
Mr. Abhishek Sharma, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner has prayed for quashing of order dated 11.07.2016 passed by JMIC, Gurgaon dismissing the complaint filed by the petitioner under Sections 109/217/218/499/500/506/129-B IPC and order dated 09.07.2018 passed by the Revisional Court affirming the same.

2. Tacitly put the facts leading to the present petition are that the petitioner filed complaint against the respondents alleging that:-

“On 07.06.2013 in evening, Sanju went to the house of Poonam, daughter of complainant at Delhi. Sanju telephonically wrongly complained about Hoshiyar to her family members. On 07.06.2013 at about 10:30 pm ASI Sukhpal called from Phone no.964558471 to the phone no. 9560531918 which is of son of the complainant and gave abuses to the complainant and his son. He threatened the complainant and stated that he will falsely implicated the complainant in many cases and he will kill the complainant and his family members. On 08.06.2013

at about 12:30pm, Raj Singh S/o Mehar Singh, Ramesh S/o Mehar Singh, Prakash S/o Mehar Singh, Rajesh S/o Raj Singh, Tutu Kumar So Raj Singh, all residents of Bamdoli and Pradeep S/o Ram Kishan R/o Narela, Sandeep @ Sonu S/o Rajesh R/o Tajpur Kalan, New Delhi PS Alipur, Monu S/o Mahabeer Singh R/o Tajpur Delhi, Mukesh S/o Raj Singh R/o Tajpur Kalan, Delhi came together to the house of Complainant and Raj Singh, the father of Sanju cried where is my daughter. Complainant told that Sanju has gone to Dhoolsaras to the house of his daughter. On that, all of them entered into the house and caused injuries to complainant, Kamla Devi, Hoshiyar and Rajwati and caused very serious and severe injuries including grievous injury (fracture) and sharp edged injuries. While beating the complainant and his family, Raj Singh and others were exhorting that the SHO is their and they have setting with the police and nothing will happen. Then Dharmender, son of complainant, who ran outside to save himself, immediately called number 100 at 12:32pm. The call was made from his mobile number 8527730707. One Kalu Ram Chauhan who was present at the spot as he was there to collect payment for milk also witnessed the occurrence.”

3. Trial Court dismissed the compliant holding that the evidence led by the complainant was discrepant and no offence as alleged in the complaint was made out. Consequently, the complaint was ordered to be dismissed at the stage of summoning, thus entailing acquittal of the private respondents.

4. The aforesaid dismissal of the complaint was agitated by the petitioner in revision. While affirming the findings recorded by the trial

Court, Revisional Court held as under:-

“xx xx xx

19. After going through above facts and circumstances, record of lower court and after hearing valuable arguments of Ld. counsels for the parties, it is expressed that except bald statement of complainant Satya Narain (CW2) and alleged eye witness Kalu Ram Chauhan (CW1), there is nothing on record to show that respondents 1 to 3 police officials had made any disobedience of direction of law or prepared incorrect public record with an intent to save respondent No.4 and his accomplices from punishment.”

5. Mr. Sharma has averred that the impugned orders passed by Courts below are erroneous as the Courts have failed to appreciate evidence on record. He further submits that at the stage of summoning, the petitioner was required to prove that the complaint and the evidence on record does disclose offence against the respondents. However, Courts below without considering the stage of the trial passed orders which are unsustainable in the eyes of law.

6. I have heard counsel for the parties and have gone through the records of the case. Counsel for the petitioner has not been able to point out any piece of evidence which has not been considered by the Trial Court.

7. Thus, in the considered opinion of this Court, no fault can be found with the findings recorded by the trial Court. Trial Court was right in holding that the evidence was deficient and discrepant and does not disclose any offence worth taking cognizance and was right in dismissing the complaint. As held in '*Pepsi Food and another vs.*

Special Judicial Magistrate and others', reported as *1998 (5) SCC 749* summoning of a person in a criminal proceedings is a serious affair and in order to summon a person, complainant is required to make out a case.

8. Keeping in view the facts of the present case, the petitioner having failed to make out a case for summoning has been rightly non-suited by the Courts below. Consequently, the present petition stands dismissed.

(PANKAJ JAIN)
JUDGE

19.09.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No