

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-27009-2013
Reserved on 30.9.2022
Pronounced on : 01.11.2022

Ranjit and others

....Petitioners

VERSUS

Mohit alias Manni and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by : Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Arvinderpal Singh, Advocate,
for the petitioners.

Mr. Gurmandeep S. Sullar, Advocate,
Ms. Devki Anand Sullar, Advocate and
Mr. Akun Sheemar, Advocate,
for respondent No.1.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioners seeking quashing of Criminal Complaint No.566 of 2010 titled as Mohit alias Manni v. Ranjit and others under Sections 148, 323, 324, 341, 506, 149 IPC (Annexure P-3) and the summoning order dated 6.7.2013 (Annexure P-4) passed by the Court of learned Chief Judicial Magistrate, Kurukshetra and further proceedings taken thereof.

In response to notice of motion, counsel appearing on behalf of respondent No.1-complainant filed written reply wherein all the allegations made by the petitioners in the present petition are refuted.

Respondent No.2-State has filed separate reply.

Brief facts of the case are that respondent No.1-complainant-

alleged that on 14.9.2010, he along with Kanwal Nain Bhola was going on a motorcycle towards the house of Kanwal Nain Bhola and on the way, they were intercepted by petitioners No.1 to 8 and then, petitioner No.2-Sumit alias Sunny exhorted that respondent No.1 be taught a lesson for not supporting them in the election of Municipal Councillor. Petitioners No.1 to 8 who were armed with deadly weapons and constituted an unlawful assembly, restrained respondent No.1 and Kanwal Nain Bhola from running away. Then, petitioner No.4-Jugal Kishore and petitioner No.5-Rajive caught respondent No.1 while petitioner No.2-Sumit alias Sunny gave knife blow which hit on his left ear and blood started oozing out. Petitioner No.1-Ranjit gave fist blow which hit on his face while petitioner No.6-Sanjay alias Gochi gave *danda* blow on the left side of his forehead and petitioner No.3-Atam Parkash gave *danda* blow on his head while petitioner No.7-Arun gave him fist blow and then respondent No.1 fell on the ground and in the meantime, petitioner No.9-Indu also came there and then all the petitioners gave beatings to respondent No.1. Petitioners-Sudhir and Indu gave kick blows to him; that Kanwal Nain Bhola had already left the spot and informed the family of respondent No.1. Then Sunny Vij (brother) and Sarita Vij (mother) of respondent No.1 reached the spot to save him from the clutches of the petitioners. However, the petitioners also attacked Sunny Vij and petitioner-Sudhir gave *danda* blow on the head of Sunny Vij. In the meantime, Balram Sharma also reached the spot and then the petitioners went away from there. In the complaint, it was further alleged that respondent No.1 was taken to LNJP Hospital, Kurukshetra where he was medico-legally examined and the police also came to know about the above

meantime, the petitioners in order to save themselves lodged false FIR against respondent No.1 alleging that he snatched gold chain from petitioner No.2-Sumit.

In the preliminary evidence, respondent No.1 himself appeared as CW1 and also examined CW2-Balram Sharma, CW3-Sunny Vij, CW4-Sarita Vij and CW5-Ranbir Singh, Clerk, LNJP Hospital, Kurukshetra.

After conclusion of the preliminary evidence, learned trial Court summoned petitioners No.1 to 8 as accused to face trial under Sections 323, 324, 341, 506 read with Section 149 IPC and under Section 148 IPC vide order dated 6.7.2013 (Annexure P-4).

Counsel for the petitioners, while challenging the complaint (Annexure P-3) lodged by respondent No.1, has submitted that the said complaint was lodged by respondent No.1 by way of counter blast to FIR No.545 dated 14.9.2010 (Annexure P-1) which was registered by petitioner No.2 against respondent No.1 with regard to incident dated 14.9.2010, as per which, on that day, at about 8/8.30 p.m., petitioner No.2 was standing outside his house and in the meantime, respondent No.1-Mohit suddenly came there and caught hold of his gold chain weighing about 8 grams and broke it and when petitioner No.2 screamed for help, respondent No.1 after snatching the said gold chain ran away towards Gaushala Bazar and on hearing screams of petitioner No.2, the passers-by caught respondent No.1 and gave him beatings and petitioner No.2 also reached there and recovered his broken/snatched gold chain from the hands of respondent No.1 and in the meantime, the police also reached the spot and respondent No.1 along with the broken gold chain was handed over to the police.

Counsel for the petitioners has further submitted that in the

aforesaid FIR No.545 dated 14.9.2010, respondent No.1 was acquitted by the trial Court but the appeal filed by petitioner No.2 was allowed and respondent No.1 was convicted by the court of Additional Sessions Judge, Kurukshetra vide judgment dated 6.5.2017 (Annexure P-5). He further contended that in order to create a false defence, respondent No.1 lodged impugned complaint (Annexure P-3) against the petitioners. It was further contended that in the impugned complaint, respondent No.1 has suppressed material facts from the Court; that in the complaint (Annexure P-3), respondent No.1 neither mentioned the time of alleged occurrence nor gave the particulars of the FIR which was registered against him with regard to aforementioned incident of snatching of gold chain of petitioner No.2. Counsel for the petitioners while placing reliance upon **Moti Lal Songara v. Prem Prakash @ Pappu and another**; (2013) 9 SCC 199 has submitted that respondent No.1 who suppressed the truth from the Court of law, has actually played fraud with the Court.

Counsel for the petitioners further contended that the injuries on the person of respondent No.1 stand fully explained as the same were caused by the general public, when he was apprehended by the passers-by when he was running away after snatching gold chain from petitioner No.2 on 14.9.2010. He has further contended that respondent No.1 lodged false complaint (Annexure P-3) to create defence in his favour to save his skin in criminal case having FIR No.545 dated 14.9.2010 (Annexure P-1). He further contended that the impugned complaint (Annexure P-3) being counter blast to the aforesaid FIR, is not sustainable in the eyes of law and thus, deserves to be quashed. In support of his assertions, counsel for the

others; 1996(2) RCR (Criminal) 701.

Even the State in its reply has specifically pleaded that the impugned complaint filed by respondent No.1 is abuse of the process of law, it being nothing but a counter blast to FIR No.545 dated 14.9.2010.

The present petition is resisted by counsel for respondent No.1 who has submitted that respondent No.1 was falsely implicated in FIR (Annexure P-1) at the instance of petitioner No.2 and on conclusion of the trial, respondent No.1 was acquitted by the trial Court vide judgment dated 13.6.2014 (Annexure R-1). Counsel for respondent No.1 has further submitted that petitioner No.2 filed appeal against the said judgment and the same was accepted by the learned appellate Court on 6.5.2017 vide Annexure P-5 but the revision petition filed by respondent No.1 against the said judgment is pending before this Court and sentence of respondent No.1 already stands suspended.

Counsel for respondent No.1 has further contended that actually, the petitioners assaulted respondent No.1 and Sunny Vij and caused injuries to them on 14.9.2010 and thereafter, both of them were medico-legally examined on the same day and copy of MLR of respondent No.1 is Ex.CW1/C and that of Sunny Vij is Ex.CW3/A which are proved on record of the trial Court by CW5-Ranbir Singh, Clerk of LNJP Hospital, Kurukshetra. Counsel for respondent No.1 has further contended that with regard to the aforesaid incident of assault, the impugned complaint (Annexure P-3) was lodged by respondent No.1 against the petitioners in which specific detail of the incident was given and in the said complaint, it was also specifically mentioned by respondent No.1 that he was falsely

snatching. Counsel for respondent No.1 has further submitted that in the impugned complaint, it was further mentioned by respondent No.1 that in the aforesaid case of snatching, he was arrested and later on, granted bail. He further contended that in this manner, there is nothing on record to show that at the time of filing of the impugned complaint (Annexure P-3), respondent No.1 concealed any material facts from the court. Counsel for respondent No.1 has further submitted that complaint (Annexure P-3) reflects true facts.

Counsel for respondent No.1 has further argued that after completion of preliminary evidence, the petitioners have been summoned by the learned trial Court in the impugned complaint vide order dated 6.7.2013 (Annexure P-4) which is well reasoned and is subsisting till date. Counsel for respondent No.1 while concluding his arguments has urged that viewed from any angle, impugned complaint (Annexure P-3) could not be considered as a counter blast to FIR No.545 dated 14.9.2010 and thus, the present petition being devoid of merits, deserves to be dismissed.

I have considered the submissions made by the counsel for the parties and have also gone through the copy of the record of the trial Court.

Admittedly, FIR (Annexure P-1) is prior in time to the impugned criminal complaint (Annexure P-3). FIR (Annexure P-1) was registered on the basis of the statement of petitioner No.2 wherein he stated that at about 8/8.30 p.m. on 14.9.2010, he was standing outside his house and in the meantime, respondent No.1 came there and snatched his gold chain and then ran away and on hearing the hue and cry raised by petitioner No.2, passers by apprehended respondent No.1 who was holding snatched chain in his hand and the said passers by gave beatings to respondent No.1.

Thereafter, respondent No.1 and snatched chain were taken into their custody by the police. Undoubtedly, there was no delay in lodging of FIR (Annexure P-1).

From the perusal of MLR Ex.CW1/C, it is clear that the medico-legal examination of respondent No.1 was conducted at about 10:00 p.m. on 14.9.2010 in the presence of ASI Mohinder Singh and at that time, respondent No.1 did not report to the police about the incident regarding which he lodged the impugned criminal complaint (Annexure P-3) in the Court of Illaqa Magistrate on 18.10.2010.

From the perusal of judgment dated 6.5.2017 (Annexure P-5), it is evident that respondent No.1 was acquitted by the trial Court but was convicted by the appellate Court in a criminal case relating to FIR (Annexure P-1). As per counsel for respondent No.1, sentence of respondent No.1 has been suspended. However, there is no stay with regard to judgment of conviction. The appellate Court while passing the judgment (Annexure P-5) has observed that respondent No.1 after snatching the gold chain of petitioner No.2, fled away from there and when he was doing so, respondent No.1 was caught and beaten by the crowd and thereafter, handed over to the police along with snatched gold chain. So, in the present case, injuries on the person of respondent No.1 are fully explained and it stands proved that the said injuries were not caused by the petitioners as has been alleged by respondent No.1 in the impugned criminal complaint (Annexure P-3). Rather the said injuries seem to be caused to respondent No.1 by the crowd which gathered at the spot when respondent No.1 was fleeing away after snatching gold chain from petitioner No.2.

Further in the complaint (Annexure P-3), respondent No.1 has

not mentioned the time of the alleged incident of assault. Also, respondent No.1 failed to examine the concerned doctor during recording of preliminary evidence in the impugned complaint (Annexure P-3). Further more, there is no evidence on record to prove that respondent No.1 lodged any complaint in writing regarding the alleged incident of assault to the police.

In view of above, it seems apparent that the impugned criminal complaint (Annexure P-3) is actuated with malice and was lodged by respondent No.1 by way of counter blast to FIR (Annexure P-1). Thus, the impugned criminal complaint (Annexure P-3) being manifestly attended with malafide is clearly abuse of the process of law and such abuse cannot be permitted as per ratio laid down by Hon'ble Supreme Court in **State of Haryana and others v. Bhajan Lal** 1992 Supplementary (1) SCC 335.

On the basis of the aforesaid discussion, it is a fit case in which inherent jurisdiction of this Court under Section 482 of Cr.P.C. may be invoked. Consequently, the present petition is allowed and the impugned criminal complaint (Annexure P-3) titled **Mohit alias Manni v. Ranjit and others** and all the subsequent proceedings arising therefrom including summoning order dated 6.7.2013 (Annexure P-4) are hereby quashed.

However, observations made hereinabove are not to be construed as expression of opinion on the merits of the revision which has been filed by respondent No.1 against the judgment of the appellate Court dated 6.5.2017.

(KARAMJIT SINGH)
JUDGE

November 01, 2022
Paritosh Kumar