

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

**CRM-M No.31233 of 2019
Date of Decision : 06.09.2022**

Gurbhinder Singh alias Gurbinder Singh

.....Petitioner

vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ranbir S. Sekhon, Advocate
for the petitioner.

PANKAJ JAIN, J.

Petitioner has invoked jurisdiction of this Court under Section 482 Cr.P.C. against the order passed by Revisional Court dated 3rd of December, 2018 whereby the order passed by the Judicial Magistrate 1st Class, Zira dismissing the complaint filed by the petitioner stands dismissed, under Section 203 Cr.P.C.

2. As per the complaint on 05.05.2014 at about 6.30 PM complainant and his uncle Hardial Singh son of Balkar Singh were storing Turi in haveli. Accused Amarjit Singh armed with Gandasi and his son Sher Singh armed with *Kappa* came. Amarjit Singh raised lalkara. Complainant tried to stop the accused. But accused Amarjit Singh gave him Gandasi blow, which struck upon left hand

and elbow. On the other side accused Amarjit Singh gave reverse blow to him which struck his left hand. Again Amarjit Singh gave another Gandasi blow on the reverse side to the complainant. He raised his left hand and it hit the left hand joint. Complainant fell down. Accused Sher Singh gave him Kappa blow which struck upon the left leg of the complainant. Again Accused Amarjit Singh gave him reverse Gandasi blow on his back on left side. Complainant and his uncle raised the noise of 'Marta' 'marta'. People assembled there. Accused fled away alongwith their respective weapons. His uncle Hardial Singh saw all the occurrence with his own eyes. Reason behind the occurrence is that accused thought that land where the Turi has been stored by the complainant belongs to them. After arranging the vehicle complainant was taken to hospital, where doctor conducted the medico-legally examination including X-Ray. Police had also recorded the statement of complainant and one Rapat was also registered on 08.05.2014 u/s 323, 324, 34 IPC.

3. It has been further claimed that the accused got false FIR No.51 dated 6th of May, 2014 registered against the complainant. The complainant was examined. He examined CW-1 Dr. Manjit Kaur, to prove MLR. Trial Court found that the occurrence as

alleged by the complainant was highly improbable. It was found that surprisingly the accused attacked the complainant but his uncle who was storing Turi along with him remained mute spectator and did not even try to rescue him. Trial Court further observed that as per the complaint, occurrence happened at 6:30 p.m. in the middle of the village within *laal lakeer* but no independent witness has come to support the complainant. Hardial Singh uncle of the petitioner, who was eye-witness and was also standing nearby the complainant did not even get the complainant admitted in the hospital. Consequently, the Trial Court found that there are inherent improbabilities appearing on the face of the record and the evidence led by the complainant is not in sync with the allegations levelled in the complaint. Consequently, the complaint was dismissed. Revisional Court found that :-

“A perusal of the record of learned lower court reveals that the complainant/petitioner had failed to prove the allegations leveled by him, by leading sufficient cogent and convincing evidence. Rather in this regard, I am convinced with the contention raised by the learned counsel for the respondents that vide judgment dated 18.01.2018, passed in appeal filed by the prosecution against the order of acquittal of the petitioner and others, this court has already hold the petitioner and other accused as aggressor party in the alleged occurrence. The complainant has also failed to prove any alleged land dispute between the parties by leading any core

of evidence in this regard."

4. I have heard Ld. Counsel for the petitioner and have carefully gone through the record of the case.

5. Ld. Counsel for the petitioner is not in position to point out any infirmity in the order passed by the Courts below. He is not in position to point out any evidence on record which has not been considered by the Trial Court while passing the impugned order. No evidence on record could be pointed out which can said to have been misread or misappreciated by the Court. Trite it is that summoning the accused to face criminal proceedings is not a routine matter. The order of the Magistrate summoning the accused must resonate application of mind. It is not a case which can be said to have caused miscarriage of justice entailing exercise of jurisdiction under Section 482 Cr.P.C. Consequently, the present petition is dismissed being without merits.

September 06, 2022

Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No