

CRM-M-16504-2016 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16504-2016 (O & M)

Date of decision:23 .11.2023

Gurdeep

.... Petitioner

V/s

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Pratap Singh, Advocate,
with Mr. Rajat Singh, Advocate, for the petitioner.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for setting aside the order dated 05.03.2016 (Annexure P-3) passed by the Additional Sessions Judge, Palwal in revision petition No.RBT 55 of 2014 titled as 'Hari and others versus Gurdeep Singh' (Annexure P-1) whereby the revision petition was accepted and the summoning order passed by the Judicial Magistrate Ist Class, Hodal (Annexure P-2) in complaint case No.205/12 dated 23.1.2012 vide which the respondents had been summoned to face trial under Sections 148, 149, 323, 324, 325, 326 and 506 IPC had been set aside.

2. The brief facts of the case are that one Gurdeep Singh (petitioner) filed a criminal complaint under Sections 148, 149, 323, 324, 325, 326 and 506 IPC against Hari Singh son of Sohan Lal, Tek Chand son of Ganeshi, Bharat Lal son of Sher Singh, Amarwati wife of Bijender, Nepal

Bijender, Rajesh wife of Nepal, Lakhmi son of Tek Chand, Sunder son of Partap, Balram son of Mange Ram and Jogender son of Jawahar with the allegations that the said accused had assaulted him (complainant), Anoop son of Ranveer and Danveer. Based on the evidence led, all the accused came to be summoned under Sections 148, 149, 323, 324, 325, 326 and 506 IPC vide order dated 15.04.2014 passed by the Judicial Magistrate Ist Class, Hodal. A copy of the order dated 15.04.2014 is attached as Annexure P-2 to the petition.

3. On the same cause of action, Anoop had got registered an FIR bearing No.230 dated 26.07.2011 under Sections 323, 324, 325, 326, 506/34 IPC, Police Station Hodal against respondents No.2 to 6/accused No.1 to 5, namely, Hari Singh, Tek Chand, Bharat Lal, Amarwati and Nepal. After investigation, the police had found respondent No.5/accused No.4-Amarwati to be innocent and had filed the charge-sheet against accused No.1 to 3 & 5, namely, Hari Singh (respondent No.2), Tek Chand (respondent No.3), Bharat Lal (respondent No.4) and Nepal (respondent No.6).

4. An application was moved in the said State case to summon Amarwati as an additional accused which was dismissed.

5. The statements of Gurdeep (complainant-petitioner), Danveer and Anoop had been recorded in the said State case wherein they had not named respondents No.7 to 14/accused No.6 to 13, namely, Sher Singh, Jai Pal, Akash, Rajesh, Lakhmi, Sunder, Balram and Jogender.

6. Vide a judgment dated 17.03.2016 passed by the Additional Sessions Judge, Palwal, accused Nepal, Bharat Lal and Hari Singh were acquitted whereas accused-Tek Chand had died during the proceedings.

7. Thereafter, the instant petition was filed challenging the order (Annexure P-3) whereby the summoning order in the complaint case was set aside.

8. The learned counsel for the petitioner contends that a perusal of the complaint would show that specific allegations had been levelled against all the accused, and therefore, they were liable to be summoned to face trial and the impugned order ought to be quashed in view of the categorical statements of the witnesses recorded at the pre-summoning stage.

9. I have heard the learned counsel for the petitioner.

10. Admittedly, Gurdeep (petitioner) had filed the instant complaint against 13 persons, namely, Hari Singh, Tek Chand, Bharat Lal, Amarwati, Nepal, Sher Singh, Jai Pal, Akash, Rajesh, Lakhmi, Sunder, Balram and Jogender. Regarding the same occurrence, Anoop had instituted an FIR No.230 dated 26.07.2011 but only against 05 persons i.e. respondents No.2 to 6/accused No.1 to 5, namely, Hari Singh, Tek Chand, Bharat Lal, Amarwati and Nepal. During the course of investigation, the fourth accused i.e. respondent No.5-Amarwati had been found to be innocent and an application moved under Section 319 Cr.P.C. to summon her as an additional accused came to be dismissed. The remaining three accused/respondents No.2, 4 and 6, namely, Hari Singh, Bharat Lal and Nepal faced trial and were acquitted whereas accused/respondent No.3-Tek Chand had died during the pendency of the proceedings in the aforesaid State case. In the deposition recorded in the said State case, no allegations have been levelled against the remaining accused i.e. respondents No.7 to 14/accused No.6 to 13, namely, Sher Singh, Jai Pal, Aksh, Rajesh, Lakhmi, Sunder, Balram and Jogender in the instant case. Therefore, once the trial has concluded in the

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State case with a judgment of acquittal and in the said State case accused No.6 to 13/respondents No.7 to 14 were never arraigned as accused, the question of quashing of the impugned order dated 05.03.2016 (Annexure P-3) passed by the Additional Sessions Judge, Palwal, whereby the summoning order dated 15.04.2014 (Annexure P-2) has been set aside, does not arise.

11. In view of the above discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

November 23, 2023
Sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No