

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

CRM-M-16653-2022

Date of Decision:26.04.2023

MAAN SINGH AND OTHERS

..... Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Mehtab Singh Khaira, Advocate for the petitioners.

Mr. Vipin Pal Yadav, Addl. AG, Punjab.

Mr. Vivek K. Thakur, Advocate for the complainant.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Sections 482 Cr.P.C. are seeking setting aside of order dated 30.03.2022 passed by Sub Divisional Magistrate, Bholath, District Kapurthala whereby petitioners have been summoned to face trial for commission of offence punishable under Sections 307, 452, 354, 325, 506 and 34 of IPC, 1860.
2. On 22.04.2022 a Coordinate Bench of this Court passed the following order:

“Respondent No.2 had lodged a FIR in which she had alleged that on 22.06.2021, at 3.20 P.M., the petitioners alongwith one Lakhwinder Singh had trespassed into her house and attacked her; in the course of such attack, the petitioners had pushed respondent No.2 from the second floor of her house as a result whereof she fell to the ground floor and suffered several fractures/grievous injuries; the police investigated the matter and found the allegations of respondent No.2 to be false; accordingly, a cancellation report was filed by the

police to which respondent No.2 had filed a protest petition and that through the impugned order, the Trial Court by treated the protest petition as a complaint, summoned the petitioners to face trial under Sections 307, 452, 354, 325, 506 and 34 IPC.

Learned counsel for the petitioner inter-alia contends that the impugned order is ex-facie illegal as the occurrence is alleged to be on 22.06.2021 at 3.20 P.M. whereas CCTV footage with the police clearly shows that on 22.06.2022 between 2.00 P.M. and 4.30 P.M. petitioner No.1 was present in his house; for the afore period petitioner No.2 was undergoing treatment for dislocation of his left knee and therefore, it was impossible for him to have climbed on to the roof of respondent No.2's house as alleged; petitioner No.3 is a 71 year old man who walks with the help of a stick and therefore he also could have not climbed to the roof of respondent No.2; on the basis of the afore facts, the police had exonerated all the petitioners; the afore-referred facts were on the record before the Trial Court but it failed to consider them before summoning the petitioners; as a matter of fact, respondent No.2 and her husband are accused in a criminal case in which respondent No.2's husband has been declared a proclaimed offender; for that reason the Vigilance Department conducted a raid on respondent No.2's house; while the raid was on respondent No.2 tried to flee and while making such attempt fell from the roof of her house resulting in injuries on her person and that the story by respondent No.2 that she was made to file a false FIR is a virtual admission on the part of respondent No.2 that the FIR in question is false and that respondent No.2 has sought to change her

version only after the same was found to be false by the police.

Notice of motion.

Notice re: Stay.”

3. Learned counsel for the private respondent submits that police after completing investigation three times filed cancellation report and complainant was left with no other option except to file protest petition. The Trial Court has passed a very detailed and reasoned order. Trial Court has considered pre-summoning evidence led by the complainant and thereafter summoned the petitioners.

4. On being asked, both the parties agreed for the setting aside of impugned order, with a direction to Trial Court to pass order afresh after considering cancellation report.

5. Without commenting upon merits of the case, the impugned order is set aside and Trial Court is directed to pass afresh order after considering different cancellation reports filed by Investigating Agency.

6. The parties at the first instance are directed to appear before Trial Court on 10.05.2023 and thereafter as directed by learned Magistrate.

7. The Trial Court shall pass fresh order after considering contention of the complainant, available record and without being prejudiced by any observation of this Court.

8. Disposed of.

(JAGMOHAN BANSAL)
JUDGE

26.04.2023

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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No