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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: July 24, 2023

Chamkaur Singh

....Petitioner

versus

Sandeep Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. P.K.S. Phoolka, Advocate for petitioner.

Mr. Abhishek Singla, Advocate for respondent No.1.

Mr. Virat Rana, AAG, Punjab for respondent No.4.

ARUN MONGA, J. (ORAL)

The instant petition has been filed under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for quashing of order dated 01.06.2013 (Annexure P-1) passed by learned Sub Divisional Judicial Magistrate, Talwandi Sabo, whereby the complaint filed by the petitioner under Sections 363, 341, 323, 506 read with Section 34 IPC against respondent Nos.1 to 3, was dismissed and for quashing of judgment dated 01.07.2015 (Annexure P-2) passed by learned Additional Sessions Judge, Bathinda, whereby the revision filed by petitioner against order dated 01.06.2013 (Annexure P-1), was dismissed.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Pardeep Singh, minor son of complainant/petitioner herein studies in 10th standard in Government School, Bathinda. Respondent No.1-Sandeep Singh and complainant are neighbours but are not on good terms. Respondent No.1 suspected that complainant's son Pardeep Singh used to write letters to his wife and drop the same at the door of respondent No.1.

2.2. On 19.11.2011, respondent No.1 along with respondents No.2 and 3, namely, ASI Kulwant Singh and Mohinder Singh Constable forcibly took minor son of complainant/petitioner herein, namely, Pardeep Singh from the school to

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house of respondent No.1 and gave beatings to him. When complainant and his wife went to the house of respondent No.1 to save their son, respondents No.1 to 3 also gave beatings to them. They also threatened to kill the minor.

2.3. Complainant went to police station to lodge complaint but no action was taken by the police. Hence the private complaint.

3. In support of his complaint, complainant himself appeared in the witness box as CW-1 and examined his wife Charanjit alias Charanpreet Kaur as CW-2 and his son Pardeep Singh as CW-3. Thereafter preliminary evidence of complainant was closed.

4. After considering the statements on oath of the complainant and his witnesses, learned Sub Divisional Judicial Magistrate, Talwandi Sabo came to the conclusion that there was no sufficient ground to proceed against respondents No.1 to 3 herein and dismissed the complaint vide impugned order dated 01.06.2013 (Annexure P-1).

5. Aggrieved, complainant/petitioner herein preferred revision against order dated 01.06.2023, which was dismissed by learned Additional Sessions Judge, Bathinda vide impugned judgment dated 01.07.2015 (Annexure P-2). Hence the instant petition seeking quashing orders of learned Courts below.

6. Learned counsel for petitioner submits that learned Courts below erred in discarding the evidence brought on record by petitioner. Both learned Courts below have committed manifest error while treating the matter as a criminal trial instead of summoning stage.

7. Arguments heard.

8. Paras 12 and 13 of the impugned judgment dated 01.07.2015 (Annexure P-2) passed by learned Additional Sessions Judge, Bathinda read as under:

“12. Since in this case, there have been no independent corroboration to prove the version of complainant, neither any record from the concerned police station have been produced which shows that complainant tried to lodge the FIR against the present respondent. Moreover, respondents

no. 2 and 3 are public servant and it is highly improbable that they will take law in their hands. Moreover no teachers of the school of Pardeep Singh has been examined which corroborate the version of complainant. Moreover delay has not been explained by the complainant in filing the complaint and trial court has sufficiently discussed the arguments raised by the counsel for the revision petitioner. The complainant has put story regarding the abduction of his son from the school and nowhere has stated that he along with his wife went to the house of Sandeep Singh from where they get released his son from the custody of accused. CW-2 Charanjit has deposed that she saw her son being given beatings by the accused. Contradictory statements have been made by the complainant witnesses which makes the entire story doubtful. Trial court has rightly dismissed the complaint. No interference can be called in the order of trial court.

13. So in view of discussion made above, present revision petition is hereby dismissed. Record of lower court be returned along with the copy of this judgment. Revision petition be consigned to the record room.”

9. Complaint version, as given in the impugned order Annexure P-1, is that two police officials (named in the complaint as Kulwant Singh ASI and Mohinder Singh Constable P.S. Raman respondents No. 2-3 and Sandeep Singh respondent No.1 forcibly took the complainant's son Pradeep Singh from his School to the house of Sandeep Singh respondent No. 1 where they physically assaulted him.

9.1 The learned trial Court observed that there was no medical evidence of beatings given to the latter and the complainant did not lodge any complaint with higher authorities against the refusal/failure of the local police to register his FIR. The learned Additional Sessions Judge observed that respondents No. 2 and 3 were public servants and it was highly improbable that they would take law in their hands; that no teacher of the school of Pradeep Singh had been examined to corroborate the version of the complainant; that contradictory statements had been made by the complainant witnesses, which made the entire story doubtful.

9.2 To me, it seems patently unbelievable that the accused would have abducted Pradeep Singh from his school in broad daylight, where the School staff and large number of students were then present, as if they were knave enough to create evidence against themselves. If, as alleged, the accused had

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brought Pradeep Singh to the house of Sandeep Singh and given him beatings there, in all likelihood, the complainant and his wife would have raised hue and cry and the neighbourers would have also come out, seen and known of these happenings. Still no such person has been named or examined to corroborate the complaint version. The story set up in the complaint thus seems inherently improbable. This being the position, no fault can be found with the impugned order passed by the learned Magistrate dismissing the complaint, as affirmed by the learned Additional Sessions Judge.

9.3 I am also of the view that matter pertains to the year 2011 and other than the self-serving statements of the petitioner, his wife and son, who appeared in the witness box as CW-1, CW-2 and CW-3 respectively, there is no independent witness *qua* the same. They are witnesses of their own cause. It is highly unlikely that the summoning of respondents No.1 to 3 would ultimately yield any positive outcome on the basis of private complaint preferred by the petitioner.

10. I find no grounds to interfere in the impugned order dated 01.06.2013 (Annexure P-1) as well as judgment dated 01.07.2015 (Annexure P-2) passed by learned Courts below.

11. Accordingly, the present petition, being devoid of merits, is dismissed.

12. Pending application(s), if any, shall also stand disposed of.

July 24, 2023
Sachin M./jyt

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No