

2023:PHHC:061873

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

CRM-M-21689-2023

Date of Decision: May 01, 2023

Simranjeet Singh @ Simma and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Varun Sharma, Advocate,
for the petitioners.

Vivek Puri, J.

1. The petitioner is seeking to quash the cross case registered vide Rapat No. 33, dated 20.03.2022 in the FIR No. 42 dated 20.03.2022, under Sections 323, 341, 452, 506, 34 of the Indian Penal Code (for short 'IPC'), registered at Police Station Sadar Nakodar, District Jalandhar and the Final Report/Challan dated 22.08.2022 and consequential proceedings emanating therefrom.

2. Learned counsel for the petitioners contends that at the instance of the petitioner no.1, a case bearing FIR No. 42 dated 20.03.2022, under Sections 325, 323, 341, 452, 506 read with Section 34 IPC was registered against the respondent no.2 along with Gurdawar Singh and Karamjit Singh. The allegations leveled by the petitioner no.1 were to the effect that on 17.03.2022 at about 8.30 AM, the

respondent no.2 along with Gurdawar Singh and Karamjit Singh had inflicted injuries on the person of the petitioner no.1 and his mother. Subsequently, a false version was recorded against the petitioners at the instance of the respondent no.2 vide Rapat No. 33 dated 20.03.2022, under Sections 324, 323/34 IPC, registered at Police Station Sadar Nakodar.

3. Learned counsel for the petitioners further contends that the quashing of the FIR has been primarily sought on the score that the respondent no.2 at whose instance, the cross version has been recorded is not appearing in the learned trial Court to give statement despite repeated opportunities and adjournments. The charge in the said case was framed as back as on 30.08.2022 and despite repeated adjournments, the complainant i.e. the respondent no.2 is not coming the Court to get the statement recorded during the course of prosecution evidence. Furthermore, a false cross version has been registered against the petitioners with an ulterior motive as a counter blast to the FIR that has been registered at the instance of the petitioner no.1.

4. The powers vested under Section 482 of Code of Criminal Procedure are extra-ordinary in nature and are required to be exercised with a view to secure justice. The powers are not intended to be used to obstruct justice or

cause impediment in its dispensation. The inherent powers vested in the High Court are required to be exercised in exceptional cases to prevent a miscarriage of justice and abuse of the process of Court or otherwise secure ends of justice. The power of quashing the criminal proceedings should be exercised very sparingly and with circumspection and that too in rarest of rare cases. The Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise the allegations as set out in FIR/complaint/charge-sheet. The inherent powers cannot be allowed to be exercised to stifle or hamper a legitimate prosecution.

5. Primarily, the quashing of the FIR has been sought on the ground that the respondent no.2 at whose instance, the cross version against the petitioners has been registered is not appearing in the trial Court to give the statement during the course of prosecution evidence. It is significant to note that the charge is stated to have been framed on 30.08.2022 and thereafter, the case is pending in the trial Court for prosecution evidence. Merely because the complainant/prosecution witness is not appearing in the trial court after framing of the charge for getting his statement recorded, cannot be termed to be a circumstance to quash the FIR. In the event, the witness is not turning up in the trial Court to get the statement recorded, the

necessary steps to ensure the presence by issuing appropriate process is to be initiated by the trial Court which is seized of the matter. Moreover, in the event the charges have been framed by the learned trial Court, the remedy available to the aggrieved person is to invoke the revisional jurisdiction of the High Court or Sessions Court, as the case may be. In this regard, a reference may be made to ***Minakshi Bala vs. Sudhir Kumar, 1994(3) R.C.R. (Criminal) 123.***

6. The contention of the learned counsel for the petitioners to the effect that a false cross version has been registered against the petitioners, cannot be accepted at this stage. The question as to whether the allegations as specified in the version put forth by the respondent no.2 are correct or not, is to be decided on the basis of the evidence that may be led before the trial Court. There are specific and categorical allegations with regard to inflicting of injuries on the person of the respondent no.2 against the petitioners. The material on record cannot be termed to be insufficient to conclude that there is lack of sufficient and reliable material which may disclose a prima facie case against the petitioners.

7. The allegations as spelt out in the cross version that has been registered against the petitioners disclose a prima facie case for commission of offence under Sections

324/323/34 IPC. Moreover, there are allegations to the effect that weapon used in the crime has not been got recovered and as such, Section 201 IPC has also been added.

8. On evaluating the material on record, no justified ground is made out to invoke the inherent power of this Court to quash the cross version in question and consequential proceedings against the petitioners.

9. Present petition is dismissed, accordingly.

May 01, 2023
vk

(Vivek Puri)
Judge

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No