

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

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CRM-M-40912-2014
Date of decision: 13.02.2023

Sukhvir Singh @ Billu and others

....Petitioners

Versus

Harjinder Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Munish Gupta, Advocate for the petitioners

Mr. Sherry K. Singla, Advocate for the respondent

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of Complaint No. 21 dated 18.05.2011, Annexure P-1, as well as for setting aside the summoning order dated 18.03.2014, Annexure P-2.
2. The present complaint arises out of a civil dispute between the family of complainant and accused No.1 with regard to the premises owned by accused No.1 and rented to the father-in-law of the complainant. As alleged, on 05.10.2008 when the complainant was alone, she was kidnapped from her rented accommodation along with her one-year old child and illegally detained in a private kothi by SHO Gurinder Singh Bal and other co-accused.
3. Learned counsel submits that except the allegation that the petitioners told the SHO to threaten the complainant, so that she vacates the house, there was nothing else levelled against them in the complaint. There was a civil litigation pending between the complainant and the petitioners and only to settle scores, the present complaint was filed, which is after a delay of 2 years and 7 months of the

alleged occurrence. Co-accused Harbans Singh, Ravijit Dhillon and Gul Dhillon had filed revision petition before the learned Additional Sessions Judge, Patiala against the said order, which was allowed vide judgment dated 29.05.2015, Annexure P-9 setting aside the summoning order. Thereafter, the complainant-respondent challenged the said order before this Court by filing CRR-1586, 1670 and 1730 of 2016, which was dismissed vide judgment dated 12.08.2016, Annexure P-10.

4. On the other hand, learned counsel for the complainant-respondent submits that there are specific allegations against the petitioners of having gotten the complainant threatened by the police and thus, they have been rightly summoned by the trial Court.

5. Heard the learned counsel for the parties.

6. It would be profitable to make a reference to the judgment dated 12.08.2016, passed by this Court in the same complaint qua the other accused, affirming the decision of revisional Court setting aside the summoning order, the relevant part of which reads thus:

“Perusal of the record shows that FIR No.110 dated 04.10.2008, under Sections 457, 380, 506 and 120-B IPC, was registered at Police Station Kotwali, Nabha against the present petitioner (complainant), her husband, father-in-law and brother-in-law in which they were arrested and challan was presented. Learned Additional Sessions Judge, Patiala after discussing the evidence on record held that the alleged occurrence had taken place on 05.10.2008 whereas the present petitioner filed the complaint against the respondents and others on 16.05.2011 before learned trial Court i.e. after the delay of more than two years and seven months. Learned Additional Sessions Judge, Patiala has held that such a long delay has not been explained by the present petitioners. It has been further held that the complaint filed by the present petitioner before learned trial Court is an afterthought and counter-blast to FIR No.110 dated 04.10.2008, under Sections 457, 380, 506 and 120-B IPC, registered at Police Station

Kotwali, Nabha and was filed just to unnecessarily harass the respondents. Learned Additional Sessions Judge, Patiala has also held that learned trial Court while summoning the respondents herein had not appreciated this admitted factual aspect of the entire matter. It has also been held that learned trial Court while passing the order dated 18.03.2014 has not specified any specific role allegedly played by the present respondents for the alleged commission of the different offences. Learned Additional Sessions Judge, Patiala has held that the order dated 18.03.2014, summoning the present respondents, has been passed only on the basis of vague and general and, therefore, the same is liable to be set aside.

I have gone through the impugned order passed by learned Additional Sessions Judge, Patiala, which is correct, as per evidence and law. At the time of arguments, nothing has been pointed out as to how the findings given by learned Additional Sessions Judge, Patiala are perverse or against the evidence. Nothing has been pointed out as to what illegality has been committed by learned Additional Sessions Judge, Patiala.

Keeping in view the above discussion, I find that the impugned order dated 29.05.2015 passed by learned Additional Sessions Judge, Patiala is correct, as per law and evidence and does not require any from this Court.”

7. The allegations against the petitioners made in the complaint read thus:-

“Thereafter accused No. 4 to 10 also came there on their vehicles and started threatening and saying Thanedar Sahib she be given torture and also to arrest his husband and father-in-law and mother-in-law. Only then they will vacate the house otherwise we will do our work as per our planning.”

8. The allegations against Ravijeet Dhillon, Harbans Singh and Gull Dhillon, the summoning order regarding whom, was set aside by the revisional Court and affirmed by this Court, read as under:-

“When the father-in-law and mother-in-law of the complainant were gone to Gurdwara and at the said time the complainant was kidnapped by SHO Gurinder Singh Bal alongwith other police officials and accused No. 1, 2 and 3 from her house without disclosing any thing. At that time the complainant was having one year old child. After kidnapping they took the complainant in a private car to the PS Kotwali Nabha and thereafter the complainant along with her child was illegally detained in a private kothi which is in Mohalla Bathindia near

Kotwali and for watching the complainant, lady constable Sukhviri Kaur was posted there who said "no need to worry", this is my house, where accused Gurinder Singh Bal, Harbans Singh who said himself to be owner of the house), where his daughter was also present, threatened the complainant and misbehaved with the complainant. After that SHO Gurinder Singh Bal and other police official after leaving the complainant under the supervision of constable Sukhviri Kaur gone from there. After an hour the said person again came there where lady constable Sukhviri Kaur and Head Constable Amarjit Singh, who said himself to be Munshi, remained with the complainant."

9. It is imperative to note that the grounds on which the summoning order has been set aside qua the co-accused by the revisional Court inure in favour of the petitioners as well, which have further been concurred with by this Court while upholding the said order, thus, the issue having been fairly and squarely dealt with and decided, leads this Court to a conclusion that the present petition deserves to be allowed.

10. Accordingly, the present petition is allowed and Complaint No.21 dated 18.05.2011, Annexure P-1 and the subsequent proceedings arising therefrom including summoning order dated 18.03.2014, Annexure P-2 are quashed.

(AMAN CHAUDHARY)
JUDGE

February 13, 2023

Mehak

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No