

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

CRM-M-6420-2018

DATE OF DECISION:-15.02.2023

Krishan Lal

...Petitioner.

V.

State of Punjab and another

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Prabhjot Singh, Advocate
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of Rapat No.39 dated 08.03.2016, whereby the petitioner has been arrayed as an accused for having committed an offence under Section 326 IPC in a cross-version to the FIR No.187 dated 24.11.2015, which was recorded at his instance, under Sections 325, 323/34 IPC, Police Station Sadar Jalalabad(w), Police District Fazilka against respondent No.2 besides few others.

The facts of the case are that on account of an incident dated 10.11.2015, relating to a dispute about cultivation of land between two neighbors, FIR No.187 dated 24.11.2015 came to be registered at the instance of present petitioner against respondent No.2, besides his son, namely, Happy and two others for having allegedly caused injuries to him.

Later on, a complaint was submitted by respondent No.2 making allegations

against the petitioner as well as his wife-Sudesh Rani and daughter-Pooja Rani, which was recorded vide General Diary No.24 dated 11.11.2015, at Police Station Sadar Jalalabad, District Fazilka, for allegedly having given spade blow on his knee of left leg by Pooja Rani.

Upon an inquiry conducted by Deputy Superintendent of Police, Sadar Jalalabad, though the aforesaid version was not found to be correct, however, still a General Diary No.39 dated 08.03.2016 was registered under Section 326 IPC against the petitioner for having inflicted injury on the knee of left leg of respondent No.2.

Assailing the aforesaid general diary No.39 dated 08.03.2016, learned counsel for the petitioner submits that though upon an inquiry conducted by the Deputy Superintendent of Police Sadar, Jalalabad, allegations levelled at the instance of respondent No.2 against the petitioner, his wife and daughter could not be verified, however, still for the reasons best known to the investigating agency, the same has been recorded against the petitioner for having allegedly committed an offence under Section 326 IPC. He further submits that even the MLR of respondent No.2, which has been placed on record as Annexure P-3 does not supports his version of having received injuries in the incident dated 10.11.2015, which admittedly took place between 4 to 5 p.m. in the evening and thus, prays for its quashing.

On the other hand, learned State counsel vehemently opposes the prayer made at the instance of the petitioner while submitting that the petitioner was indicted after a thorough inquiry/investigation conducted by a senior officer of the rank of Deputy Superintendent of Police, Jalalabad

and the version of respondent No.2 was even corroborated from his MLR of having received injury on the lower portion of the knee of his left leg.

Despite having been served, no one has chosen to appear on behalf of respondent No.2.

I have heard learned counsel for the parties and gone through the records. I find substance in the submissions made on behalf of the petitioner.

A conjoin reading of FIR No.187 dated 24.11.2015 (Annexure P-4 at pages 16 - 22), the general diary No.24 dated 11.11.2015 (Annexure P-1 at pages 11-13) and the MLR of respondent No.2 (Annexure P-3 at page 14) shows that admittedly, the incident took place on 10.11.2015 at around 4/5 p.m., whereas respondent No.2 got himself medico legally examined at around 9:15 p.m. on that day. Perusal of his MLR shows that a clear observation has been made thereupon by the Medical Officer regarding the probable duration of the injuries to be within 30 minutes i.e. approximately between 8 to 9 p.m. This fact alone falsified the story set up by respondent No.2 himself of having received injuries in the incident, which allegedly took place between 4/5 p.m. on 10.11.2015.

Furthermore, as per the original version given by respondent No.2 at the time of recording of General Diary No.24 dated 11.11.2015, he was inflicted injuries by Pooja Rani i.e. the daughter of present petitioner only, whereas admittedly the said version was not even established before the inquiry officer i.e. the Deputy Superintendent of Police, Jalalabad at the time of preparing the General Diary report No.39 dated 08.03.2016, who

very categorically records that the statement made by respondent No.2 of having been given injuries by Pooja Rani was not verified and, therefore she and her mother were not implicated. In this view of the matter, there was no justification of implicating the present petitioner for allegedly having committed an offence under Section 326 IPC while recording the impugned General Diary No.39 dated 08.03.2016 against him and, that too, in conflict with the own version given by respondent No.2.

More than that, the dispute between the neighbors is about cultivation of their holdings on account of which, respondent No.2, besides his son allegedly gave beatings to the petitioner. The counter general diary, in fact, appears to be malafide and a result of ulterior motive on the part of respondent No.2, just to pressurize the petitioner to enter into settlement as well as to save himself and, thus, the same is unsustainable keeping in view the guidelines framed by Hon'ble the Supreme Court in case of ***“State of Haryana vs. Chaudhary Bhajan Lal and others”***, AIR 1992 SC 604. The relevant clause 7 from para 107, which squarely covers the case in hand is reproduced hereunder for reference:-

“107

.....

7. Where a criminal proceedings is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

In view of the discussion made hereinabove, wherein the allegations levelled at the instance of respondent No.2 against the petitioner are not supported by his own medico legal report, besides the same being

result of malafide intent and ulterior motive, so as to save his own skin as well as his son, continuation of proceedings arising out of General Diary No.39 dated 08.03.2016 would amount to an abuse of process of law and the same is therefore ordered to be quashed.

Accordingly, petition stands allowed.

15.02.2023
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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No