

CRM-M-29415-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-29415-2019

Date of Decision : July 04, 2023

Parveen and others Petitioners
vs.
State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Vijay Kumar Sheoran, Advocate
for the petitioners.

Mr. Karan Sharma, DAG, Haryana.

Mr. Suresh Kumar Jindal, Advocate
for respondent no.2.

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GURBIR SINGH, J. :

1. Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing the Criminal Complaint No.COMI/106/2016 dated 20.08.2016 (Annexure P-1) filed by respondent no.2 as well as the impugned summoning order dated 20.05.2019 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Charkhi Dadri, vide which the petitioners have been summoned for the offences committed under Sections 147, 148, 323, 324, 506 read with Section 149 IPC in the above said Criminal Complaint.

2. Learned counsel for the petitioners has submitted that respondent no.2-complainant filed the complaint (Annexure P-1) on the allegations that on 21.04.2016, at about 07:30 PM, his brother Sukhvinder Singh was returning to his house, from the fields. On the way, when he

reached near the house of Sombir, Parveen caused a stone injury from the roof and raised *lalkara* that on that day, they would beat him. On that, other accused persons namely Sombir, Sukhbir, Manbir, Jasbir and Smt. Ved Kaur, in connivance with each other, attacked his brother Sukhvinder Singh with lathies, iron rods, knife and jelli. Jasbir caused a knife blow on the person of his brother. In order to save himself, he guarded the knife blow with his left hand, the blow hit on his hand. Parveen caused lathi blow on his head. His brother raised alarm. Complainant and his uncle Ram Niwas reached the spot to save Sukhvinder. All the accused attacked him and his uncle Ram Niwas with lathis, dandas, jelli and knife. Sombir caused injury on the right leg of Ram Niwas, then Manbir and Sukhbir caused injuries on back and head and Ved Kaur caused injuries on his left and right hands and forehead. Parveen and others also caused injuries. Ishwar son of Deda Ram and Karamvir son of Jai Lal and others came. They had seen the occurrence and saved him and his brother from the clutches of the accused. Then, the accused persons left the place of occurrence after giving threats of killing to the complainant and his brother. Thereafter, complainant, his brother and uncle were shifted to hospital. They were medico-legally examined. Police came there and made verbal inquiry from the brother of complainant Sukhvinder and got his signatures on blank paper and police said that his statement would be recorded on that paper. Later on, it was known that FIR No.79 dated 22.04.2016 was recorded but the same was cancelled on the basis of opinion of doctor. Police did not record the correct statement.

3. Learned Trial Court, after recording preliminary evidence,

summoned the petitioners under Sections 147, 148, 323, 324, 506 read with Section 149 IPC, vide order dated 20.05.2019 (Annexure P-2).

4. Learned counsel for the petitioners has argued that regarding the same occurrence, brother of respondent no.2-complainant namely Sukhvinder Singh got registered FIR No.79 against the present petitioners under Sections 147, 148, 149, 323, 324 IPC, at Police Station Badhra. During investigation of the said FIR, police found all the allegations levelled by respondent no.2 false and frivolous. Consequently, cancellation report dated 21.05.2016 (Annexure P-3) was prepared and submitted in the Court of learned Judicial Magistrate Ist Class, Charkhi Dadri. Respondent no.2 and his brother Sukhvinder Singh were not satisfied with the investigation carried out by the police. So, they approached the higher authorities, requesting them for fresh investigation of the case through some high-ranked police officer. Resultantly, Deputy Superintendent of Police, Badhra conducted fresh investigation in the matter and found the allegations levelled by respondent no.2 and his brother to be false and baseless and accordingly, submitted the Status Report dated 15.05.2017 (Annexure P-4). As per the said Status Report, opinion was sought regarding the injuries suffered by brother of the complainant-respondent no.2 and the concerned doctor opined that injury no.1 was simple in nature and possibility of the injury mentioned in the MLR, being due to fall and being self-inflicted or with friendly-hand, could not be ruled out. So, it is contended that as per the afore-said Status Report and opinion of the doctor, the petitioners did not cause any injury to the complainant or his brother and the injuries present on the person of

respondent no.2 and his brother were self-inflicted and with friendly-hand. In the Status Report, it was also found that respondent no.2-complainant and his family members were anti-social elements and seven criminal cases were already registered against them, detail whereof was given in the Status Report. Thus, they were habitual and hard-core criminals and they had falsely implicated the petitioners in this case. It is further argued that on the day of alleged occurrence i.e. 21.04.2016, petitioner no.1-Parveen son of Somvir was bed-ridden because on 11.04.2016, his right elbow was fractured and on the same day, he was operated at Ganpatrai Maternity and General Hospital, Bhiwani and was discharged on 16.04.2016 (Annexure P-7). Therefore, it is highly improbable and unconvincing that after four days of discharge from hospital, after being operated upon and with a plaster on his arm, petitioner no.1 could cause injuries to respondent no.2 and his brother. It is further argued that respondent no.2 had concealed material facts in the complaint. True and material facts of the present case are that on the same day i.e. 21.04.2016, at about 07:30 PM, respondent no.2 along with his family members and friends caused very serious and grievous injuries to petitioners no.2 to 6 and FIR No.78 dated 22.04.2016 (Annexure P-5), under Sections 323, 341, 34, 325, 506, 307 was registered at Police Station Badhra. Police has already filed challan in this case against respondent no.2 and his family members/friends in the trial court. It is further argued that impugned order has been passed in a mechanical manner without properly appreciating the facts of the case. It has been further argued that the order of summoning was to be supported by at least some incriminating evidence so as to

prudently convince the Court that there was some material, so as to depict involvement of a person in the case. The summoning order is bad in the eyes of law.

5. The learned counsel for the petitioner has apprised this Court that there are seven FIRs against respondent no.2 and his family members, all registered at Police Station Badhra. One FIR pertains to the year 1993, one is of year 1999, two of the year 2000, one is of year 2014 and two pertain to year 2016. The complainant party is habitual criminals and are involved in large number of cases.

6. In support of his afore-stated contentions, learned counsel for the petitioners has relied upon judgments of Hon'ble Apex Court in case **Bahubhai Bhimabhai Bokhiria and another vs. State of Gujarat** reported as **2014 RCR (Criminal) 915**, decided on 03.04.2014, **Hardeep Singh and another vs. State of Punjab and another** reported as **2014 (1) RCR (Criminal) 623**, decided on 11.12.2014, **Harpreet Singh vs. State of Punjab and another** reported as **2014 (1) RCR Apex Judgment 384**, decided on 12.09.2017, **M/s Pepsi Foods Ltd. and another vs. Judicial Magistrate and others** reported as **(1998) 5 SCC 74**, decided on 04.11.1997, **S.N. Mukherjee vs. Union of India** reported as **1990(4) SCC 594**, decided on 28.08.1990 and **Kishore Kumar Khaitan vs. Parveen Kumar Singh** reported as **2006(3) SCC 312**, decided on 13.02.2006.

7. Relying on the afore-said judgments, learned counsel for the petitioners has prayed that the criminal complaint in question as well as the summoning order be quashed.

8. Learned State counsel, while opposing the prayer made by learned counsel for the petitioners, has submitted that during the course of investigation, discrepancies were found in the statements of witnesses and the complainant party was found to be the aggressor party in the other case i.e. FIR No.78 dated 22.04.2016, under Sections 323, 341, 34, 325, 506, 307 IPC, registered at the instance of petitioners on the same day at Police Station Badhra (Annexure P-5). Charge in the said case was framed and the case is fixed for prosecution evidence. It has further been submitted that during investigation, FIR No.79 dated 22.04.2016, filed against the present petitioners under Sections 147, 148, 149, 323, 324 IPC, at Police Station Badhra was found false and consequently, cancellation report dated 21.05.2016 (Annexure P-3) was prepared and submitted in the Court of learned Judicial Magistrate Ist Class, Charkhi Dadri.

9. Learned counsel for respondent no.2 has argued that learned Trial Court passed the impugned summoning order on the basis of evidence adduced in the private complaint by the complainant i.e. complainant himself as CW-1, Ram Niwas as CW-2, Karambir as CW-3 and Sukhvinder as CW-4.

10. The learned counsel for respondent no.2/complainant has further argued that mere registration of cases against the complainant and his family members cannot be taken as a ground to say that anybody can cause injuries to them and get away. Petitioners have committed an offence. So, they deserve to be prosecuted. As per medical record of Parveen, he was discharged from hospital on 16.04.2016 and occurrence in question is of

21.04.2016. He fully participated in the occurrence. The doctor concerned only gave the opinion that possibility of injury being self-inflicted or with friendly hand or by fall could not be ruled out but the doctor did not give any opinion that no injury was suffered. It is a question of trial whether injuries were caused by the petitioners or not. This Court cannot conduct a mini-trial.

11. I have heard averments of learned counsel for the petitioners, learned State counsel as well as learned counsel for the complainant.

12. The impugned summoning order dated 20.05.2019 (Annexure P-2), passed by learned Judicial Magistrate Ist Class, Charkhi Dadri, is as under :-

“Arguments heard on point of summoning of accused. It has been submitted by Ld. Counsel for the complainant that accused persons in furtherance of their common object formed an unlawful assemble and have caused injuries to the complainant, his brother Sukhvinder and his uncle Ram Niwas and also threatened them of life. It has been further submitted that CW2 Ram Niwas, CW3 Karambir and CW4 Sukhvinder have corroborated the version of complaint. It has been further submitted that from the statement of complainant as well as three other witnesses and documents placed on record, there are sufficient grounds to proceed further against the accused persons. It is requested that accused may kindly be summoned.

2. *Heard. Keeping in view the contents of the application and the statement of*

complainant and other witnesses and material placed on record by the complainant, this court is of the considered opinion that there are sufficient grounds to proceed further against the accused namely Parveen son of Somvir, Somvir, Sukhbir sons of Chandgi, Manvir, Jasvir sons of Sukhvir and Smt. Ved Kaur wife of Sukhvir, all residents of village Chandwas, Tehsil Charkhi Dadri, District Bhiwani. Thus, notice be issued against accused persons for commission of offence punishable under Sections 147, 148, 323, 324, 506 read with Section 149 IPC for 10.10.2019 on filing of copies of complaint etc.”

13. The learned Trial Court relying upon the statements of complainant and three witnesses produced by the complainant, has formed the opinion that there are sufficient grounds to proceed against the accused persons. No such opinion was given by the concerned doctor that there were no injuries. Whether injuries were caused by the assailants or were self-inflicted or with friendly hand or were result of fall, is a question of evidence. The Court is not to conduct a mini-trial in the proceedings under Section 482 Cr.P.C. I draw support from two judgments of Hon’ble Supreme Court in **State of Uttar Pradesh and another vs. Akhil Sharda and others – Criminal Appeal No.840 of 2022** and **Central Bureau of Investigation vs. Aryan Singh etc. – Criminal Appeal Nos. 1025-26 of 2023 (@ SLP(Crl.) Nos. 12794-12795 of 2022)**. Registration of cases against the complainant-respondent no.2 and his family members/friends is no ground to conclude at this stage that they had made false and frivolous

allegations. If police files a cancellation report, then aggrieved party has every right to file a complaint under Section 190 Cr.P.C. The authorities cited by learned counsel for the petitioners are not attracted at all to the facts of the present case.

14. In view of what has been discussed in the preceding paragraphs, I find no illegality in the order passed by the Trial Court summoning the petitioners. Accordingly, the petition, being devoid of any merit, stands dismissed.

15. Pending applications, if any, shall stand disposed of along with this petition. What has been discussed and observed above, is only for the purpose of deciding this petition and has no effect on the merits of the case.

July 04, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes.
Whether reportable ?	No.