

2023:PHHC:151803

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

CRM-M-40290-2020
Reserved on: 21.11.2023
Pronounced on: 29.11.2023

RAHUL

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Gagandeep Rana, Advocate,
for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.PC, prayer is made for quashing of Criminal Case No.1 of 2015 (Annexure P5) titled '*Vipan Kumar vs. Vivek Singla & Others*' pending before Ld. JMIC, Ludhiana, the summoning order dated 26.03.2018 (Annexure P6) and all the consequential proceedings.

2. It is contended by ld. counsel that similar petition of co-accused Vivek Singla and Vikas Singla bearing CRM-M-16786-2018 has already been allowed by this Court vide order dated 30.05.2019 (Annexure P7). It is contended that as per the prosecution, petitioner along with co-accused Vivek Singla & Vikas Singla, after obstructing the passage of complainant-Sanjay Dutt (respondent No.2) and his colleague Vipin Kumar (respondent No.3) caused multiple grievous injuries to them

including fracture to respondent No.3 with deadly weapon. Regarding this occurrence, FIR No.193 dated 12.09.2013 was registered at Police Station Salem Tabri, District Ludhiana City, under Sections 308, 325, 323, 56s6, 148 and 149 IPC. As no action was taken by the Police, respondent No.3- Vipin Kumar, approached this Court by filing CRM-M-30005-2014, to issue necessary direction to the police authority to investigate the matter properly and expeditiously. Said petition was disposed of vide order dated 23.02.2015 (Annexure P2), on disclosing the fact by the police that untraced report was going to be filed. Disposing of the petition, liberty was given to respondent No.3 to file objections to the untraced report, if any, before the trial Court, if he so desires. Concerned Court was also directed that it may order further investigation or initiate whatever action may be required in the facts and circumstances of the case. Untraced report was filed by the police in the first week of March 2015.

3. Ld. counsel contends that investigating agency filed cancellation report before the trial Court. Respondent No.2 filed protest petition, reiterating the facts mentioned in the FIR (Annexure P1). The concerned Magistrate allowed the protest petition and treated the same as a complaint. Said protest petition is still pending before Id. Magistrate at the stage of prosecution evidence. However, during proceeding of that protest petition, treated as a complaint, respondent No.3 filed another complaint (*impugned complaint No.1 of 2015 - Annexure P5*) on the same facts and circumstances against the petitioner and the co-accused and the Court issued the summoning order on 26.03.2018 (Annexure P6).

4. Contention of Id. counsel is that now petitioner is facing two private complaints on the similar set of allegations i.e., one by respondent No.2 on conversion of his protest petition into complaint; and second by way of private complaint (Annexure P5) by respondent No.3. Ld. counsel contends further that with the same averments, CRM-M-16786-2018 was filed by co-accused Vivek Singla and Vikas Singla, which was allowed by this Court vide order dated 30.05.2019 (Annexure P7) after observing as under: -

“The complaint (Annexure P-5) is hit by the doctrine of “double jeopardy”, inasmuch as a person cannot be vexed twice for the same offence. Since, the protest petition of respondent No. 2 is treated as complaint in compliance to order Annexure P-2 of this Court, which was passed much earlier before filing of private complaint (Annexure P-5). Therefore, this Court is of the considered opinion that complaint of respondent No. 3 is not maintainable.

Accordingly, the instant petition is allowed. Consequently, Criminal Case No. 1 dated 01.05.2015 (Annexure P-5); summoning order dated 26.03.2018 (Annexure P-6) and all the consequential proceedings arising therefrom qua the petitioners are quashed. The concerned Court which had treated the protest petition of respondent No. 2 as complaint shall be at liberty to proceed against the petitioners, in accordance with law.”

5. Respondents No.2 & 3, despite their service through their counsel representing them before the trial Court, did not make any representation.

6. Heard.

7. The case of the petitioner is fully covered by the order dated 30.05.2019 (Annexure P7) as reproduced above. As such, the present

petition is allowed in terms of the aforesaid order dated 30.05.2019 passed in CRM-M-16786-2018. Consequently, complaint (Annexure P5), summoning order dated 26.03.2018 (Annexure P6) and all the consequent proceedings arising therefrom, are hereby quashed. The Court concerned, before which the protest petition of respondent No.2 is pending, shall be at liberty to proceed against the petitioner, in accordance with law.

Pending application (s), if any, stands disposed of.

(DEEPAK GUPTA)
JUDGE

29.11.2023

Vivek

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes
Yes/No