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

CRM-M-52668-2021

Date of Decision:11.05.2023

RUPINDERPAL SINGH CHANDI

..... Petitioner

Versus

STATE OF PUNJAB ETC

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Tarun Singla, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

Mr. Saurav Bhatia, Advocate
for the complainant.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of Complaint No. COMI/08/2017 dated 30.01.2017 titled as “Baljinder Kaur vs. Kewal Singh etc. (Annexure P-4), under Sections 323, 341, 354, 452, 34 of IPC, summoning order dated 13.04.2018 (Annexure P-5) and order dated 06.07.2019 (Annexure P-9) whereby the petitioner has been declared proclaimed offender.

2. Learned counsel for the petitioner *inter alia* contends that the complainant filed a complaint against petitioner as well as his four other family members. The complaint was filed on 30.01.2017 and summoning order came to be passed on 13.04.2018. The petitioner left for Canada on 13.03.2018 i.e. prior to passing of summoning order, thus, petitioner could not be served, however, trial Court vide order dated 06.07.2019

declared him as proclaimed offender. The family members of the petitioner have faced trial and JMIC, Phillaur after considering evidence led by complainant has recorded categoric finding that complainant has failed to support her case. The trial Court has acquitted all the accused. The allegation against the petitioner are identical as other co-accused.

3. The role of petitioner and relevant extracts of the judgment dated 19.10.2019 passed by trial Court in the case of co-accused read as :

“The accused no.3 also said that Baldev Singh himself is admitting him as a big Numberdar and a lesson will be also taught to them for interfering into their matter. In the meanwhile; the accused No.2 and 3 started quarreling with the complainant and they gave slap-blows to the complainant. When the complainant went to her house for her safety from cruel clutches of accused, then the accused illegally and forcibly trespassed into the house of the complainant behind her and the accused N.4 and 5 while trespassing into the house of complainant gave pushesblows to the complainant. When the family members of the complainant tried to stop them from doing so, then they started to beat her family members also. Then accused No.1 and 5 caught the complainant and accused no.2 raised a Lalkara by saying that “Issnu Sanu Rokan Da Sabak Sikha Deyo”. In the meantime; the accused torn the clothes of the complainant and they abused the complainant in filthy language and threatened that they will install the pole outside the house of complainant and threatened the complainant to do anything for this. On hearing Raula of the complainant and her family members, many people of the village gathered there, who escaped the complainant and her family members from the cruel clutches of accused. X X X X Therefore, from the

answers given by complainant herself, one thing is crystal clear that the houses of the accused persons are far away from the house of the complainant. The complainant herself admitted that the electricity pole was installed by the electricity department and same was installed by them in the government land. Therefore, one thing is crystal clear that the accused persons never installed any electricity pole as alleged by the complainant in present complaint, rather same was installed by the electricity department. It seems that complainant has filed the present complaint just to harass the accused persons and for nothing else because accused had contested elections against the complainant in Panchayat elections. Even complainant herself admitted that he did not visit the police station and any hospital to get medical treatment. In the natural course of business every injured person would immediately rushed to the hospital when he or she got injuries but in the present case no explanation put forwarded by the complainant as to why she did not bother to get medical examination from any government or private hospital. There is no explanation given by the complainant as to why she never approached to the police authorities after the occurrence. This court is of the considered opinion that summoning of accused as well as framing of charge and conviction of accused in a criminal complaint is a very serious matter. This court is of the further view that motive is always a double edged weapon. In today's time, it has become a general trend to file the frivolous complaints either to extract money or settle personal scores or pressurize the other party to succumb to the demands of complainant. This court is of the view that criminal complaints are often used as arm twisting mechanism to assert pressure or

obtain desirable results as per wishes of complainant. It is the duty of the court to ensure that matters which are not infact criminal in nature, those matters should not be given criminal overtones or colour by one party to the disadvantages of others. Courts cannot be mute spectators to such tendencies to abuse law. Even acquittal in the trial is also not be able to wipe out the deep scars of suffering of ignominy. Ultimate object of Justice is to find out the truth and punish the guilty person and to protect the innocent person. The criminal trials lead to immense sufferings for all the concerned. It is well settled law that criminal justice system should not be allowed to be misused as a tool. In the present case, complainant leveled serious allegations against the accused however, witness examined by the complainant are seems to be interested witnesses. It seems that complainant tried to give a different colour in the shape of criminal liability to the real dispute between the parties and in order to put pressure upon the accused. 13. As such, in view of the discussion made here-inabove, this court is of the considered view that the complainant miserably failed to prove her case on the basis of cogent and convincing piece of evidence and benefit of doubt is to be given to the accused. The present complaint is clear cut abuse of process of law. As such, accused Kewal Singh, Nirmal Singh, Bira and Surjit Singh are hereby acquitted from the charges framed against them under section 323 read with section 34 of IPC. Case property, if any be disposed off after the expiry of period of appeal or revision or subject to result of appeal/revision thereof, if any. File be consigned to the Record Room, Phillaur after due compliance and be got revived after the arrest of accused Rupinder Singh.”

4. Learned counsel for the complainant submits that complainant has filed CRM-A-82-2022 before this Court assailing order of acquittal of co-accused. A Coordinate Bench of this Court has issued notice in application seeking condonation of delay for 12.07.2023. He has no objection if P.O proceedings are quashed *qua* the petitioner and Trial Court is directed to keep the trial in abeyance till the adjudication of appeal by this Court.

5. In view of statements of both sides and considering the facts and circumstances of the present case, the impugned order dated 06.07.2019 (Annexure P-9) declaring the petitioner proclaimed offender is set aside and Trial Court is directed to keep the trial in abeyance till the adjudication of CRM-A-82-2022 by this Court.

6. Disposed of.

(JAGMOHAN BANSAL)
JUDGE

11.05.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>