

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-5330-2022
Date of Decision- 09.08.2024

SACHIN AND ANR

.....PETITIONERS

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S.Jammu, Advocate
for the petitioners.

Mr. Surinder Singh Pannu, Addl, A.G.,Haryana

Mr. Munish Mittal, Advocate
for the complainant.

SANDEEP MOUDGIL, J

CRM-19789-2023

This is an application under Section 482 Cr.P.C for placing on record the additional affidavit of petitioner no.1 as Annexure P-12.

For the reason mentioned in the application, the same is allowed subject to all just exceptions. Registry is directed to tag the same at appropriate place.

CRM stands disposed of.

CRM-M-5330-2022

1. This petition filed under Section 482 Cr.P.C. seeks quashing of FIR No.411 dated 20.09.2011, Annexure P-1, under Section 323, 324, 506, 148, 149 of the Indian Penal Code, 1860 (for short – ‘IPC’) and Section 326 IPC added later

on), registered at Police Station Taraori, District Karnal, alongwith all subsequent proceedings arising therefrom.

2. It is contended by the learned counsel for the petitioners that the FIR in the present case is nothing but an instrument to harass the petitioner on account of evil designs of the complainant. According to the prosecution case, the petitioner had caused injuries to the complainant party whereas factually it is the complainant party viz. Pankaj Kumar and Mandeep, alongwith one Mohit, had caused injuries to both the petitioners on the day of occurrence i.e. on 5.9.2021 and both the petitioners had got themselves medico legally examined from Civil Hospital, Nilokheri, District Karnal (Annexures P-2 & P-3 respectively). FIR No.0412 on the complaint of the petitioners was lodged on 21.09.2021 against the accused persons(Annexures P-4 & P-5,) respectively. He further contends that Complainant party's Mandeep and Pankaj were allegedly admitted in hospital on 5.9.2021 at 10.00 p.m. but when information about their admission was sought under RTI Act in Kalpana Chawla Govt. Medical College & Hospital, Karnal, then petitioners were informed that the above said persons had not been admitted in Kalpana Chawla Govt. Medical College & Hospital, Karnal on the said date. Thus, it is crystal clear that the complainant version is manipulated one.

3. The learned State Counsel, by referring to the affidavit of Deputy Superintendent of Police, Karnal, has submitted that the petitioner No.2 moved complainant against the complainant party on 8.9.2021 against Pankaj, Mandeep (of complainant party) and 2/3 persons regarding inflicting injuries on the person of Ranbir and Sachin as such DDR No.26 dated 08.09.2021 was recorded in Police Station Taraori, Karnal. Thereafter Pankaj moved complaint against Ranbir Singh and others about inflicting injuries on the person of Pankaj and Mandeep. Earlier also, FIRs No.246 and 247 were registered against both the parties on 29.05.2021

which are pending trial. Pankaj son of Sukhbir moved one complaint dated 20.09.2021 before the Superintendent of Police, Karnal which culminated into FIR No.411 dated 20.09.2021, Annexure P-1.

4. He further contends that pursuant to registration of FIR, investigation was conducted and it is during the course of investigation that the Investigating officer sought opinion of the Doctor (Dr.Nepal Singh, M.O.) of Kalpana Chawla Govt. Medical College Hospital, Karnal, on injury No.5 on the person of injured Mandeep on 27.09.2021, who opined that fracture seen over right 5th metatarsal bone and grievous in nature and being caused by sharp weapon and on the basis of such opinion, offence under Section 326 IPC was added in the FIR. Therefore, no fault can be found in the registration of FIR and in this view of the matter, the present petition is liable to be dismissed.

5. Mr. Munish Mittal, Advocate, learned counsel for the complainant put in appearance and furnishes his Vakalatnama on behalf of the complainant and submits that the petitioner are the culprits as they have caused injuries on the person of the complainant and others. The role and injuries attributed to the petitioners are very specific in nature. According to the complainant, Arshu alias Ashu caused deadly attacks with knife in the stomach of Mandeep which led to heavy bleeding from his stomach and as a result, he fell down and fainted and when complainant tried to remove Ashu, then Raj Pal and Sachin, who were holding iron rods, and others attacked the complainant on his head. Ranbir came with a gandasi (sickle) in his hand and gave gandasi blow on the legs of complainant's brother and as such, the petitioners do not deserve any relief of the kind prayed for by them. Therefore, the present petition deserves to be dismissed.

6. Heard learned counsel for the respective parties at length.

7. The learned counsel for the State and the complainant have indeed supported the prosecution version recorded in the FIR but on perusal of the case file, it has come to the light that there is previous rivalry between both the parties and as such FIRs No.246 and 247 stand already registered against each other. As such, possibility of false implication of the petitioners cannot be ruled out in this case.

8. However, perusal of the observation of the lower court reveals that there is another FIR registered about the same occurrence bearing FIR No.412 of 21.09.2021 whereas the present FIR bears FIR No.411 of 20.09.2021. Rajpal and Ashu @ Haresh were not found to be present on the place of occurrence by the Investigating Officer and instead, as per the certificate of the Managing Director of the Sugar Mills, Rajpal was on Duty from 1.00 PM to 9.00 PM and Ashu @ Haresh was not keeping well due to reduction in platelet count which is based on the report of diagnostic laboratory given on 5.9.2021 at 12.39 P.M. Thus, the Investigating Officer has made statement before the learned Court below that these certificates cannot be disbelieved by him. As such, the complainant version is proved to be false and frivolous as far as above said Raj Pal and Ashu @ Haresh are concerned.

9. Perusal of order dated 28.04.2022 of this Court reveals that in response to the contention of the learned counsel for the petitioners that the injured persons had never gotten themselves examined in Kalpana Chawla Govt. Medical College & Hospital, Karnal and had placed upon the information received under the RTI Act, this Court had directed the respondent – State of Haryana to file additional affidavit in this regard on or before the next date of hearing. Accordingly, Deputy Superintendent of Police, Karnal, has furnished additional

affidavit dated 03.09.2022, wherein para 3 is relevant and the relevant lines thereof read thus:-

“3. That as per enquiry made by SI Sultan Singh, the patient/ injured namely Pankaj and Mandeep were not found admitted in Kalpana Chawla Govt. Medical College & Hospital, Karnal, on 05.09.2021 and they just got treatment in OPD basis.....”

10. Needless to mention here that perusal of report under RTI Act (Annexure P-6) shows that as per report of Nursing sister, Incharge Casualty that as per OPD record the patients Mandeep s/o Jaswant Singh and Pankaj s/o Sukhbir Singh, r/o village Bhaini Kalan, Karnal, were not admitted at Emergency, Kalpana Chawla Govt. Medical College, Karnal. Thus, this report sought under RTI Act further falsifies the complainant version.

11. Further, OPD is operational during day time only and not thereafter. Moreover, treating the patients in OPD is also indicative of the fact that they were not taken by the police for their medical examination and their condition was not serious. Therefore, there is serious manipulation on the part of the complainant to overcome the registration of FIR No.412 lodged on the complaint of petitioner No.2.

12. It is a settled proposition of law that in situations where the FIR is demonstrably fabricated and maliciously implicates the petitioner, the High Court may intervene to quash it and prevent a miscarriage of justice.

13. Consequently, this Court is fully satisfied that complainant has certainly manipulated the story and managed to secure manipulated medical evidence to rope the petitioners in the present FIR to overcome FIR (No.412) against them and to implicate the present petitioners and others, who were not even present at the place of occurrence, in the present FIR No.411, Annexure P-1.

Accordingly, present petition is allowed and FIR i.e. FIR No.411 dated 20.09.2011, Annexure P-1, under Section 323, 324, 506, 148, 149 of the Indian Penal Code, 1860 (Section 326 IPC added later on), registered at Police Station Taraori, District Karnal, alongwith all subsequent proceedings arising therefrom, is hereby ordered to be quashed qua the petitioners.

09.08.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable :Yes/No