

2024:PHHC:134949



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

CRM-M-19307-2018 (O&M)

Reserved on : 16.09.2024

Pronounced on : 18.10.2024

Ravinder Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Petitioner in person.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Mr. Manjeet Singh, Advocate
for respondent No. 2.

MANISHA BATRA, J.

1. Prayer in this petition has been made for quashing of order dated 04.04.2018, passed by the Court of learned Judicial Magistrate First Class, Hisar in case bearing No. 253-I of 2017, CIS No. CHI/1328/2016, titled as *State vs. Ravinder Kumar*, arising out of FIR No. 240 dated 26.03.2016, registered under Sections 323, 353, 186, 506 of IPC and Section 3 of Prevention of Damage to Public Property Act, 1984 at Police Station Sadar Hisar, District Hisar, whereby the prayer made by the petitioner for discharging him had been declined.

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a

2024:PHHC:134949



written complaint lodged by the Superintendent, Cnetral Jail-II, Hisar alleging therein that on 26.03.2016, petitioner Ravinder Kumar, who is an advocate by profession, along other advocates namely Dilbagh Singh and Suman Rani, had gone to the jail premises for meeting an inmate, namely Rampal. After meeting the above named inmate, when the petitioner and other advocates were coming out of the jail premises, officials performing duties at the main gate asked them to conduct their personal search but the petitioner refused to do so and started abusing the officials. He also had a scuffle with them and then forcibly entered inside the room of the Jail Superintendent and started abusing him too. He picked up a chair kept in the room and tried to assault the Jail Superintendent with the same. However, due to intervention of other officers and officials of the jail, he was rescued and then the petitioner was taken out of the main gate of the jail premises. While going, he extended threats to kill the officials of the jail and criminally intimidated them. Prayer was made for taking action against petitioner Ravinder Kumar as he had caused obstruction in performance of the public duty and had damaged public property. After lodging of FIR, investigation proceedings were initiated. After completion of necessary investigation and usual formalities, challan was presented against the petitioner before the Court concerned. The petitioner moved an application for discharging him, which has been dismissed by the learned trial Magistrate by observing that no ground has been made out. Feeling aggrieved, the present petition has been filed by the petitioner.

3. Learned counsel for the petitioner has argued that the petitioner

2024:PHHC:134949



has been falsely implicated in this case. In fact, it was the petitioner, who was beaten up by the officials of the Central Jail, Hisar when he had gone to meet his client Rampal to make consultation about his case on 26.03.2016. The above named client of the petitioner had told him about the misbehaviour by some jail officials qua him and he wanted to move a complaint against those officials. The petitioner had been making note as per the information given by his client for the purpose of moving a complaint on his behalf but not appreciating this fact, Deputy Superintendent of the jail entered into the room wherein the petitioner was sitting with his client, and had extended threat to not to write anything. The petitioner had tried to make them understand that he was performing his duty towards his client. The Jail Superintendent, namely Samsher Singh Dahiya, had called him and had asked him to give his file and diary, in which he was making notes and on resistance of the petitioner, the former had directed his officials to snatch the files of the petitioner. One jail Constable had assaulted the petitioner by giving a punch in the backside of his neck, thereby making him unconscious. He was extended beatings by other officials also and was pushed out of jail. He was even medically examined. He had lodged a complaint against the Jail Superintendent and other officials but no heed was paid to the same. The subject offences are not made out against him at all. Learned trial Magistrate, while passing the impugned order, did not take all these facts and circumstances into consideration. With these broad submissions, it is urged that the impugned order is liable to be set aside, the petition deserves to be allowed and the petitioner deserves to be discharged of the offences for

2024:PHHC:134949



which he has been booked and challaned.

4. *Per contra*, the respondents have filed reply to the petition resisting the claim of the petitioner. Learned State counsel, assisted by learned counsel for respondent No. 2/complainant, has argued that there is a *prima facie* case on record to prove that the petitioner had caused obstruction in performance of lawful duties by respondent No. 2 and other officials posted at Central Jail, Hisar on 26.03.2016 by taking advantage of the fact that he was an advocate by profession. The matter has been duly investigated by the police. At the stage of framing of charge, a *prima facie* case is to be seen and the allegations make out a case for framing the same. Learned trial Magistrate has passed a well reasoned order, which does not warrant any interference. Hence, it is urged that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. Before proceeding further, it would be proper to have a look at the provisions of Section 227 of Cr.P.C., which read as under:

“227. Discharge

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

7. Now the question that has arisen before this Court for

2024:PHHC:134949



consideration is as to whether the petitioner was liable to be discharged? In the considered opinion of this Court, the answer to this question is in negative for the reasons to be recorded in the coming paragraphs.

8. The law on the issue with regard to the nature and degree of evaluation of the evidence presented by the investigating agency before the trial Court at the time of framing of charge is well settled. At this stage, the trial Court is only required to form a presumptive opinion with regard to the existence of the factual ingredients breaching the threshold of the alleged offences. At the stage of formation of opinion under Sections 227, 239 and 240 Cr.P.C., the trial Court is not required to weigh the probative value of the material brought on record in the golden scale or to presume the prosecution story as gospel truth. Hon'ble Supreme Court has laid down the principles for the purpose of framing of charges in ***P. Vijayan Vs. State of Kerala : (2010) 2 SCC 398***. Reference can further be made to the authority cited as ***Union of India Vs. Prafulla K Samal : (1979) 3 SCC 4***, wherein Hon'ble Supreme Court has held that the Court while considering the question of framing charges under Section 227 of Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a *prima facie* case against the accused has been made out. It was further observed that where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing charge and proceeding with the trial and the Court should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if it was conducting a trial.

2024:PHHC:134949



Reference can also be made to *Vishnu Kumar Shukla and another Vs. State of Uttar Pradesh and another : 2024 AIR Supreme Court 90*, wherein Hon'ble Supreme Court, while referring to *Rumi Dhar v State of West Bengal, (2009) 6 SCC 364 and State of Tamil Nadu v N Suresh Rajan, (2014) 11 SCC 709*, has made similar observations.

9. Now advertent to the peculiar facts and circumstances of the present case, it is revealed that the petitioner has been arraigned as an accused in the aforementioned FIR, which was registered on the complaint given by the Superintendent, Central Jail, Hisar with the allegations that on 26.03.2016, the petitioner along with two other persons had come to jail premises to meet his client Rampal and while he was coming out of the jail premises, his personal search was to be conducted but he refused to do so and instead, he had abused the complainant, tried to assault him by throwing a chair on him and also extended threats to kill the officials of the jail and criminally intimidated them. The allegations levelled against the petitioner prima facie make out a case for offences for which he has been booked. The trial Court, while dismissing his application seeking discharge, has observed that the petitioner is involved in some other criminal cases. The trial Court has rejected the prayer of the petitioner by passing a detailed order and by observing that a *prima facie* case was made out against the petitioner. On a plain reading of the contents of the FIR, it cannot be stated that the necessary ingredients of the subject offences are not made out and the trial Court was not obligated to frame charge against the petitioner. Accordingly, in view of the discussion as made above, the present revision petition is dismissed as no

2024:PHHC:134949



infirmity or illegality is found in the impugned order, passed by the trial Court, which is a well reasoned order.

14. However, it is made clear that the observations made herein above are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion of this Court on the merits of the case.

18.10.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>