

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-23726-2014 (O&M)

Decided on 01.02.2024

Darshan Singh & Anr.

... Petitioners

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sherry K Singla, Advocate and
Mr. SS Panag, Advocate for the petitioners

Mr. RS Khaira, DAG Punjab

Sandeep Moudgil, J.

(1). By this order, I propose to dispose of CRM-M-23726, 32566 of 2014 and CRM-M-26843-2017 as issues involved are identical for adjudication by this Court and as such, CRM-M-23726-2014 is being treated as the lead case.

(2). This petition under Section 482 CrPC has been filed by the petitioners/accused seeking to quash the summoning order dated 11.04.2013 (Annexure P2) passed by JMIC, Ludhiana as well as the complaint No. 11 dated 16.02.2011 (Annexure P1) under Sections 323/341/148/149 IPC.

(3). Learned counsel for the petitioners submits that regarding incident dated 05.01.2011, a complaint was made by the complainant before the Police and in the investigation, no offence was found to have committed by the petitioners. On the basis of some improvement, the present complaint has been made whereas the incident as well as parties are same. The difference is only with regard to certain facts otherwise same allegations are levelled. Learned counsel also submits that the trial Court has summoned the petitioner without taking into consideration the earlier investigation conducted by the Police.

(4). It is submitted that the summoning court failed to consider the fact that on 05.01.2011, respondent No.2 along with some other persons gave injuries to the petitioners regarding which petitioners had even lodged undated complaint (Annexure P5) and also failed to take into consideration that the respondent No.2 has made differing statements in the complaint which is contradictory to the statement before police station Siarah inasmuch as he stated that the petitioner has stated that Darshan Singh has given sotti blow to respondent No.2 whereas in the complaint filed by respondent, no role has been attributed to the petitioner.

(5). Reply has been filed by Varinderjeet Singh, PPS, DSP S/D Payal, Police District Khanna, District Ludhiana wherein it has been averred that the incident occurred on 05.1.2011 and on the statement of respondent No.2, DDR No.18 dated 05.1.2011 was recorded, however, since no cognizable offence was made out, as such, no action was taken against the petitioners.

(6). In reply filed by the respondent No.2/complainant, while giving a detailed and long story of the incident, it is submitted that there are specific allegations in the complaint which are duly corroborated by medical evidence as well as by the statement of CW1 complainant himself and other witnesses recorded before the Magistrate. It is averred in the reply that a report be called from the forensic agency to ascertain the genuineness of the disputed signatures of respondent No.2 vis-à-vis signatures of witness Jasmail Singh. It is further averred that the petitioner managed to get FIR No.150 dated 24.05.2011 lodged against the petitioner and his family members by exercising undue influence over police and subsequently, a cancellation report was submitted which was ultimately found to be correct by SP(D) Khanna and as such forwarded to the

trial court, however, a protest petition was filed against the said cancellation report dated 14.02.2012 (Annexure R6) which has been treated as complaint.

(7). Heard learned counsel for the parties.

(8). As per the order passed by the summoning Court dated 11.04.2013, admittedly, as per the examination of Dr.Gurlal Singh, Medical Officer, CHC Dehlon, Ludhiana, the complainant was medico-legally examined and found as many as 8 injuries and abrasions on different parts of the body of the complainant which was declared as simple and inflicted with blunt weapon. That being so, there was sufficient evidence for the trial court to proceed against the petitioners and summon them to face trial. Moreover, the allegations and counter-allegations leveled from both the sides against each other cannot be ascertained before this Court being purely question of fact and can only be proved by leading evidence. In such circumstances, it would be premature for this Court to assume that the complaint or the subsequent proceedings suffer from mala fide or is ulteriorly motivated, at this stage, for which trial is required to be proceeded by involving the parties.

(9). In view of the above discussion, there is no merit in the present petition and the same is dismissed.

01.02.2024
V.Vishal

(Sandeep Moudgil)
Judge

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |