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

**CRM-M-9885-2018 (O&M)
Date of Decision:- 27.08.2024**

Babli alias Bansi Lal and Others

.... Petitioners

Vs.**State of Haryana and Another**

.... Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. B.S. Saroha, Advocate for
Mr. Rahul Vats, Advocate
for respondent No. 2.

AMARJOT BHATTI, J.

Petitioners Babli alias Bansi Lal, Bhola alias Shalu, Shamsheer alias Salma and Manisha alias Shiv Kumar filed petition under Section 482 Cr.P.C. for quashing of complaint No. 170/2015 dated 24.08.2013/16.04.2015, Annexure P-1 and summoning order dated 29.07.2017, Annexure P-2, passed by learned Judicial Magistrate 1st Class, Indri, whereby petitioners have been summoned under Section 307, 120-B/34 of IPC and Section 25-54-59 of Arms Act.

2. As per the facts of case, Surrender respondent No. 2 filed a complaint against petitioners under Section 307, 114-A, 120-B/34 of IPC and Section 25-54-59 of Arms Act, Police Station Indri with allegations that he was doing the business of property dealer. On 15.04.2013, at about

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08:45/09:00 PM, he was sitting near the shop of Lachman Dhuria and at that time Kesar Panch came to him and asked why he was sitting there. Complainant stated that his sons were sitting in the shop of Chatru Tailor and for this reason he came out for smoking. Kesar Singh went to the shop of Chatru Tailor and at that time three boys came on Splendor motorcycle, one namely Babli who was known to him (complainant). Companions of Babli pointed out towards him that he was Surrender. On this Babli fired shot with country made pistol towards him in order to kill him, as a result, he received injury under right arm and further received bullet injuries towards right side of his chest. On hearing fire arm shot, Ravi and Raju Verma came on the spot and on seeing them Babli and his companions ran away from the spot. In-fact, Babli fired shot by hatching criminal conspiracy with Bhola @ Shalu, Shamsher @ Salma and Manisha @ Shiv Kumar. Copy of complaint is Annexure P-1. After recording of pre-summoning evidence, petitioners were ordered to be summoned for the commission of offence under Sections 307, 120-B/34 of IPC and Section 25-54-59 of Arms Act vide summoning order dated 29.07.2017, Annexure P-2.

3. Learned counsel for petitioners argued that earlier at the instance of Surrender, FIR No. 136 dated 16.04.2013 was registered under Section 307, 114-A, 120-B of IPC read with Section 34 of IPC and Section 25 of Arms Act. Babli was arrested on 10.05.2013 and was remanded to police custody. In-fact, complainant had filed a false complaint and during investigation, police had invoked Sections 193 and 195 of IPC against the complainant. However, in the said case, complainant alongwith others was

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acquitted. Copy of judgment dated 04.12.2014 is Annexure P-3. On the same very facts, complaint is filed by concealing true facts. In-fact, Babli was discharged by Illaqa Magistrate, Police Station Indri in FIR No. 136 dated 16.04.2013 (supra). Thereafter, present petitioners have been summoned by the Magistrate illegally without appreciating the aforesaid factual position. Surender complainant did not file any appeal or revision against the order of discharge dated 05.07.2013, which is placed on record as Annexure P-4. Learned Judicial Magistrate 1st Class, Indri overlooked the earlier investigation and the discharge order. In-fact, complaint filed by respondent No. 2 /complainant is not sustainable in the eyes of law. Therefore, complaint filed by Surender, Annexure P-1 and summoning order dated 29.07.2017, Annexure P-2 may be quashed by accepting present petition.

4. Learned counsel representing State filed status report, according to which investigation was carried out by ASI Jagbir Singh. During investigation, MLR of Surender was procured. As per X-ray report, no fracture was seen. Accused Babli @ Bansilal was joined in investigation and was arrested in FIR No. 136 dated 16.04.2013 under Section 307, 120-B, 114-A/34 of IPC and Section 25-54-59 of Arms Act and was produced before Illaqa Magistrate, Karnal. During investigation, it was revealed that main dispute was between Shalu and Sonia regarding distribution of area. After polygraph test, version put forward by Babli @ Bansilal was found to be truthful. The investigation was also verified by SI Dipender Singh and Sh. Baljinder Singh, HPS, Deputy Superintendent of Police, Indri. Petitioner Babli @ Bansilal was found to be innocent and application was

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filed for his discharge. Another FIR No. 655 dated 30.07.2013 under Section 399, 402 of IPC and Section 25-54-59 of Arms Act, Police Station City Thanesar was under investigation. Balwinder Singh @ Tannu was arrested in that case and in disclosure statement he revealed that he had taken money from Surender and Sonia along with Ravi and had fired shot at Surender in Indri. After procuring sufficient incriminating evidence against Surender and Sonia, they were arrested and after completion of investigation, final charge-sheet was presented against Balwinder Singh, Ravi Kumar, Surender and Sonia under Section 114, 120-B, 34, 192, 193, 195 of IPC. However, they were acquitted by the Court of learned Additional Sessions Judge, Karnal vide judgment dated 04.12.2014 and as per the opinion of District Attorney, Karnal, it was not found to be a fit case for filing appeal. It is argued that petition is devoid of merits and same may kindly be dismissed.

5. Learned counsel for respondent No. 2 confirmed the factual position regarding registration of FIR against the petitioners and thereafter, they faced trial by including offence under Sections 192, 193 of IPC in which they were ultimately acquitted. It is argued that when no proper investigation was carried out by police, present complaint was filed narrating true facts in which after recording of pre-summoning evidence petitioners were ordered to be summoned under Section 307, 120-B/34 of IPC and Section 25 of Arms Act vide summoning order dated 29.07.2017. Petition filed by petitioners is without merits and same deserve dismissal.

6. I have considered the arguments advanced before me and have gone through the record carefully. Facts of the case indicate that regarding

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the occurrence of 15.04.2013, initially FIR No. 136 dated 16.04.2013 was registered under Section 307, 114-A, 120-B of IPC read with Section 34 of IPC and Section 25 of Arms Act. During investigation, one of accused Babli @ Bansi Lal was arrested who was ultimately discharged by the Court of Judicial Magistrate 1st Class, Karnal vide order dated 05.07.2013, Annexure P-4. Perusal of this order shows that prosecution had filed application for discharge of accused Babli as it was claimed that police had failed to collect any evidence against him and for this reason learned Judicial Magistrate 1st Class, Karnal released the accused from custody. It was observed in said order that in case Investigating Agency collects any evidence in future then he can be arrested again.

Thereafter, on the basis of disclosure statement of Balwinder in another FIR No. 655 dated 30.07.2013, Investigating Agency concluded that dispute was between Shalu Kinnar on the one hand, Sonia Kinnar and Surender on the other hand and a criminal conspiracy was hatched by Surender with Ravi and Balwinder for firing shot at him to falsely implicate Shalu and Babli. On the basis of this investigation, they apprehended Balwinder, Ravi, Sonia Kinnar and Surender and accordingly they faced trial under Section 114, 120-B/34/192/193/195 of IPC and Section 25 of Arms Act. It is matter of record that they were acquitted vide judgment dated 04.12.2014, Annexure P-3 and no appeal is preferred against this judgment. Learned Additional Sessions Judge, Karnal did not believe the prosecution case which led to acquittal of Sonia Kinnar, Surender, Babli and Ravi. Under these facts and circumstances, Surender filed private complaint against present petitioners with same allegations as

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detailed initially in FIR No. 136 dated 16.04.2013, which is Annexure P-1 and after recording of pre-summoning evidence, learned Judicial Magistrate 1st Class has passed summoning order dated 29.07.2017, Annexure P-2. The Investigating Agency rather involved Surender and others and they were charge-sheeted under Section 114, 120-B, 34, 195 of IPC and Section 25 of Arms Act. Therefore, respondent No. 2 availed other alternative remedy provided under Code of Criminal Procedure by filing complaint against the petitioners.

7. In the light of aforesaid factual position, I do not find merits in the petition filed by petitioners for quashing of complaint, Annexure P-1 or summoning order dated 29.07.2017, Annexure P-2. Resultantly, petition filed by petitioners is accordingly declined.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

27.08.2024*lalit***(AMARJOT BHATTI)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No