

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

1. CRM-M No.40489 of 2023

Sucha Singh ... Petitioner

Vs.

Santokh Singh and another ... Respondents

2. CRM-M No.5375 of 2024

Jasbir Singh and others ... Petitioners

Vs.

Santokh Singh and another ... Respondents

Date of decision: 18.04.2024  
Reserved on: 05.03.2024

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Atul Jain, Advocate,  
for the petitioners.

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MANISHA BATRA, J.

1. This order shall dispose of the aforementioned two petitions  
i.e. CRM-M No.40489 of 2023 titled as *Sucha Singh v. Santokh Singh  
and another* and CRM-M No.5375 of 2024 titled as *Jasbir Singh and*

*others v. Santokh Singh and another.*

2. Both these petitions have been filed under Section 482 of Cr.P.C. for quashing a complaint bearing No.COMI/4/2023 dated 16.01.2023 titled as *Santokh Singh v. Sucha Singh and others* filed under Sections 307, 326, 323, 324, 354, 148 and 149 of IPC and the summoning order dated 06.03.2023 as passed in the abovesaid complaint by the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi.

3. For the purpose of continuity and coherence, the parties shall be referred to hereinafter as per the same nomenclature as given in the above named complaint.

4. The factual matrix of the case in brief is that the aforementioned complaint has been filed by the complainant making allegations that there were inimical relations between the parties as civil litigation qua same land is going on between them and that the accused had been trying to cause harm to the complainant and his family members to succumb to their unjust demands. It has been alleged that on 25.11.2022 at about 10 AM, the accused along with 8-10 unknown persons being armed with weapons, entered into the land in dispute between the parties by forming membership of an unlawful assembly and in furtherance of their common object, they started digging earth of the said land so as to make it unworthy of any use. When the complainant came to know about this fact, he along with his family members rushed to the spot to make the accused understand, but instead of doing that,

they opened an assault upon the complainant and his family members by using weapons carried by them and caused injuries to them. The complainant alleged that the accused Jasbir Singh tried to outrage the modesty of Pawandeep Kaur wife of his son Hardeep Singh and also tore off her clothing. They also made an attempt to kill the complainant and his family members by trying to run over the tractor trolley which they brought along with them. The witness Hardeep Singh had managed to capture some part of the incident on his mobile phone. They had raised alarm which had attracted several persons on the spot thereby making the accused flee away from the spot with their weapons. The complainant and other injured were taken to the hospital and were treated. It has been further been alleged by the complainant that the matter was being reported to the police but no action was taken. Therefore, the complaint was filed. The learned trial Court after recording preliminary evidence has passed the order dated 06.03.2023 which is sought to be impugned in these petitions and quashing of the complaint has also been prayed for.

5           It is argued by learned counsel for the petitioners-accused that the complaint has been filed by making false and baseless allegations to rope in all the members of their family in order to wreak vengeance by the complainant. The complaint filed by the complainant is a counter blast to the FIR No.17 dated 06.02.2023 which has been got registered by the petitioners-accused under Sections 323, 324, 506, 379 and 148 read with Section 149 of IPC. No offence under Section 307 of IPC is made

out against them. All the injuries found on the person of members of the complainant party are opined to be simple in nature. Infact, the same are self inflicted. There is no opinion of doctor that any injury on the person of the complainant or the other alleged injured is dangerous to life. The learned trial Magistrate while passing the impugned order dated 06.03.2023, did not apply his judicious mind and passed this order in a routine manner. The impugned order is a non-speaking one passed in a mechanical manner without adverting to the evidence led by the complainant. Therefore, it is submitted that the impugned order dated 06.03.2023 as well as the complaint are liable to be set aside.

6. I have considered the submissions as made by learned counsel for the petitioners-accused and have gone through the material placed on record in the form of statements of the witnesses recorded by the Magistrate before passing the impugned order dated 06.03.2023 and the medico legal examination report of the injured Amandeep Kaur.

7. It is well settled proposition of law that at the stage of summoning the accused on the basis of a private complaint, all that is required is a satisfaction by the Magistrate that there is sufficient ground to proceed against the accused in the light of the record made available and the evidence adduced by the complainant. At that stage, the Magistrate had to find out whether a prima facie case had been made out against the accused or not. The Magistrate is not required to meticulously appreciate the evidence at the stage of Sections 203/204 of the Code of

Criminal Procedure and all that the Magistrate has to do is to see whether on a cursory perusal of the complaint and the evidence recorded during preliminary inquiry under Sections 200 or 202 of Code of Criminal Procedure, that there is prima facie evidence in support of the charge levelled against the accused. The Magistrate has to see whether or not, there is sufficient ground for proceedings against the accused and in that process, the Court is not required to weigh the evidence meticulously.

8. It is also equally well settled that the order of the Magistrate summoning the accused must reflect that he/she has applied his/her judicious mind to the facts of the case and the law applicable thereto. In this regard, reference can be made to **Jagdish Ram v. State of Rajasthan and another**, (2004) 4 SCC 432, wherein it was observed by Hon'ble Supreme Court that taking of cognizance of the offence is an area exclusively within the domain of a Magistrate. At this stage, the Magistrate has to be satisfied whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.

9. In the instant case, a perusal of statements of witnesses recorded by the complainant (copies of which have been kept on record) reveals that the same have duly supported the version in the complaint

that on 25.11.2022, the present petitioners had formed membership of an unlawful assembly and had entered into the land which was the subject matter of litigation between the parties and had tried to dig the same to make it unusable, that the petitioners along with others had opened an assault upon them, and had caused injuries to them even the modesty of one of the members of the complainant party had been tried to be outraged and in this manner, the offence of rioting had also been committed. As observed earlier, at the stage of summoning, it is merely to be seen whether a prima facie case is made out or not. The submissions which have been raised by learned counsel for the petitioners call for determination on questions of fact which may be adequately adjudicated upon only by the trial Court and even the submissions made on the point of law also can be more appropriately gone into only by the trial Court. In **Rana Singh alias Rana Singh alias Martnd v. State of U.P. and another**, which is an application filed under Section 482 bearing No.17833 of 2020 decided on 29.01.2021, it was observed by Allahabad High Court while dealing with the question as to quash of a complaint and summoning order had observed that adjudication of questions of facts and appreciation of evidence or examining reliability and credibility of the version, does not fall within the arena of jurisdiction under Section 482 of Cr.P.C. It was further observed that the legal position on the issue of quashing of criminal proceedings is well settled that the jurisdiction to quash a complaint, FIR

or a chargesheet should be exercised sparingly and only in exceptional cases. However, where the allegations made in the FIR or the complaint or material on record even if taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, a chargesheet may be quashed in exercise of inherent powers under Section 482 of Cr.P.C. The High Court of Allahabad had also relied upon the guidelines issued by Hon'ble Supreme Court in celebrated pronouncement cited as **State of Haryana and others v. Ch. Bhajan Lal**, AIR 1992 SC 604.

10. On perusal of material placed on record, it cannot be held that the impugned criminal proceedings that have been initiated by the respondent No.1/complainant by filing complaint are manifestly attended with any mala fide and maliciously instituted with any ulterior motive for wreaking vengeance on the accused or with a view to spite them with due to private or personal grudge. Rather, it appears that the impugned order has been passed by applying due procedure and no substantial illegality, perversity or any substantial error could be pointed out by learned counsel for the petitioners in the same. In my considered opinion, though this Court possesses inherent powers under Section 482 of Cr.P.C. which are very wide but the very plenitude of the power required great caution in its exercise and this inherent power cannot be exercised to stifle a legitimate prosecution. Such powers have to be exercised only to give effect to any order under Cr.P.C. to prevent abuse of process of the Court

and to secure the ends of justice. In the instant case, no such eventuality could be drawn.

11. After considering the contentions raised by learned counsel for the petitioners and perusing the contents of the impugned complaint and the material in support of same, this Court does not find it to be a case which could be determined or gone into a petition under Section 482 of Cr.P.C. and to hold a parallel trial. Finding no substantial illegality, perversity or any other error in the order passed by the learned trial Court, it is held that the petitions do not deserve to be allowed. Accordingly, both the petitions are dismissed. However, keeping in view the facts of the matter, it is directed that in case, the petitioners have not appeared before the learned trial Court so far, then they shall appear and surrender before it on or before the date fixed by the trial Court and shall move application for grant of bail. Till that date, no coercive action shall be taken against them.

**18.04.2024**  
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**(MANISHA BATRA)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No