

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

263-CRM-M-213-2021 (O&M)

Date of Decision: 29.01.2024

Sahib Singh

... Petitioner

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. BS Bajwa, Advocate for the petitioner

Mr. RS Khaira, DAG Punjab

Ms. Kusum Raj, Advocate for

Mr. ADS Jattana, Advocate for respondent No.2

Sandeep Moudgil, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of case FIR No.131 dated 23.05.2020, under Sections 379/323/447/283/343 IPC, registered at Police Station Jandiala Guru, District Amritsar (Annexure P3) and all other subsequent proceedings arising therefrom.

Counsel for respondent No.2 submits that she adopts the reply filed by the State and as such, no separate reply is required to be filed by respondent No.2.

Before adverting to the merits and to recapitulate the factual matrix of the case, it would be appetite to reproduce the FIR, which reads as under:-

“Statement of Prem Singh Ex-Sarpanch son of Sarabjit Singh resident of Tarfan age about 42, police station Jandiala Guru, mobile No. 9915143007. Stated that I am resident of above mentioned address and am doing agricultural work. I was performed as sarpanch of the village for ten years and now my

daughter in law Amandeep Kaur wife of Baldev Singh is sarpanch of the village at present. passage Before 9 leads to years the public our village was constructed pucca, on which the inter lock tiles were affixed by the government. On one side the land of Karam Singh son of Makhan Singh Jatt resident of Tarfan was adjacent to the passage. These Karam Singh and his sons Sahib Singh, Yadvinder Singh have usually mixed the passage in their land by dismantled the tiles from the passage constructed by the govt. Whom have asked to stop to do the same earlier. On dated 15.05.2020 at time about 11:00AM that Karam Singh son of Makhan Singh and his both sons Sahib Singh and Yadvinder Singh sons of Karam Singh residents of Tarfan have theft the tiles by dismantled the same from the govt. passage and were jointing the passage with their land by cutting with the help of spade. After seen that stopped them to do so, then started quarreling with me and Sahib Singh has attacked upon me with spade and raised my arm upside, which hit on the wrist of my right arm and again given second blow of spade on me which hit near arak of right arm, in the meantime after heard my voice, my wife Baljinder Kaur and my nephew Baldev Singh son of Baljinder Singh have came at the spot, after seen whom they fled away from the spot, due to lockdown of Corona Virus I can not obtained my MLR and I got treatment from private hospital. Karam Singh son of Makhan Singh and his sons Sahib Singh and Yadvinder Singh have theft the govt. tiles and have tried to encroach the govt. land forcibly and injured me by giving beatings me, and created hindrance passage. Claiming action, taken, in this resolution submitted of to regard on the public action may be the copy of the panchayat has been you. Sd/- Prem Singh, Prem Singh above, witness Sd/- Baldev Singh son of Balvinder Sigh resident of Tarfan. Attested sd/- Tarsem Singh SI, police station Jandiala dated 23.05.2020.”

Counsel for the petitioner contends that the offence under Section 323 is not at all made out as no medical examination has been got conducted on the person of the complainant who has alleged that the petitioner had attacked upon him with spade and raised his arm upside, which hit on the wrist of his right arm and another blow of spade which hit the complainant near arak of his right arm though no part of the body has been mentioned therein which is absolutely vague as is evident from the challan/final report presented before the Court under Section 173 CrPC.

It has also been asserted that the petitioner has been falsely implicated at the behest of ex-sarpanch who never wanted the petitioner to contest the election against him and a concocted story of stealing road tiles which were otherwise lying at a place to be planted and construction of the said village road and no incriminating material is available in the challan to connect the petitioner with the theft of tiles and no offence is also made out.

A perusal of the FIR goes on to show that there are specific attributions to the effect that the petitioner along with some persons attacked the complainant which hit on the right arm and another blow of spade which hit the complainant near arak of his right arm but the said story is absolutely disbelieved having no iota of truth in it. It cannot be assumed that having given blow twice on the arm which would necessitated medical assistance thereafter and medical history produced by the prosecution or the report relied upon by the prosecution, the instant FIR seems to be an act of vindictiveness against the sarpanch which would tantamount to abuse of process of law.

Accordingly, this petition is allowed and the FIR (Annexure P3) along with consequential proceedings arising therefrom stands quashed.

29.01.2024	(Sandeep Moudgil)
V.Vishal	Judge
1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No