



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

CRM-M-10022-2015 (O&M)

Reserved on: 27.11.2024

Date of decision: 30.01.2025

Rita Chowdhry and Another

...Petitioners

Versus

Sandeep Singh Bhatia

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Roopak Bansal, Advocate for the petitioners.

None for the respondent.

KARAMJIT SINGH, J.

1. The present petition under Section 482 Cr.P.C. is filed by the petitioners seeking quashing of criminal complaint No.481 of 2013 titled Sandeep Singh Bhatia Vs. Rita Chowdhry and others (Annexure P-4) and summoning order dated 25.11.2014 Annexure P-6 passed by the Court of Judicial Magistrate Ist Class, Gurgaon (now Gurugram).

2. The brief facts of the case are that respondent Sandeep Singh Bhatia filed criminal complaint Annexure P-4 against both the petitioners and three police officials wherein it is alleged that the petitioners intended to grab the school which was run by respondent in plot No.NS-2111, Akash Neem Marg, DLF Phase-II, Gurgaon, which was just opposite to the house of the petitioners. The petitioners in collusion with the other accused persons were forcing the petitioners to enter into an agreement to sell the said school to them at a throw-away price. All the accused persons including the petitioners also



hatched criminal conspiracy to extort money from respondent. On 19.01.2012, petitioners had intentionally insulted and outraged the religious feelings and sentiments of respondent and they also removed his turban and cut his hair with a scissors and they also torn his Gutka (a religious prayer book) and pictures of 10 sikh gurus. The matter was reported to the police but police failed to take any action against the petitioners and other accused persons. Rather, son of the petitioner was falsely implicated in criminal case having FIR No.216 dated 03.09.2012 under Section 66-C of Information and Technology Act (in short 'IT Act'), which was registered in Police Station DLF, Phase-II, Gurgaon, wherein son of the respondent was taken into custody and was tortured, but was later on granted bail. On 26.06.2012, both the petitioners extended threats to wife of respondent, by making telephone call to her. That the accused persons committed cheating and fraud against the petitioners, but police failed to take any action against them.

3. On the basis of the preliminary evidence, learned trial Court passed summoning order Annexure P-6 whereby petitioners are summoned to face trial under Sections 120-B, 196, 193, 295-A, 327, 340, 342, 347/34 IPC and under Section 66-A of IT Act and Section 2 (d) of the Protection of Human Rights Act, 1993 while the other accused are summoned under Section 120-B, 195-A, 340, 342 and 347 IPC.

4. The petitioners being aggrieved of complaint Annexure P-4 and summoning order Annexure P-6 have filed the present petition.

5. In response to notice of motion, respondent appeared in the Court through his counsel and filed reply supported by document Annexure R-1. Respondent also placed on record documents Annexure R-2 to R-17. However subsequently, after 03.02.2020, there was no representation on behalf of the



respondent, more specifically on 16.10.2024, 07.11.2024 and 27.11.2024.

6. The Senior counsel for the petitioners has *inter alia* contended that all the allegations made in the complaint Annexure P-4 are totally false and frivolous. It has been further contended that complaint Annexure P-4 was filed by respondent to counter blast FIR dated 03.09.2012 which was registered against son of respondent, at the instance of petitioner No.1. It has been further argued that actually, one fake email Annexure P-1 dated 04.04.2012 was sent under the name of petitioner No.1 to the administrator (HUDA), Gurgaon alleging that the management of Gurgaon Valley School, DLF Phase-II, Block-P, Sector-25, Gurgaon has raised unauthorized construction at the spot and that the officials of HUDA failed to take any action against Ram Kumar Yadav, Vijay Pal Yadav of RKG Education Society, who are running the said school. When the petitioners came to know about the said fake email, they reported the matter to police vide complaint Annexure P-2 dated 26.04.2012. The police inquired into the matter in detail and it was found that actually, email Annexure P-1 was generated by Jappreet Singh son of respondent and consequently, FIR No.216 dated 03.09.2012 was registered against said Jappreet Singh, who is residing in the neighborhood of petitioners. After registration of the said FIR, Jappreet Singh joined investigation and got effected recovery of his laptop and mobile phone used to generate the false email and the same were sent to FSL for their examination. Respondent Sandeep Singh Bhatia was also impleaded as an accused in the FIR case but was granted anticipatory bail. On account of the registration of aforesaid FIR, the respondent got offended and lodged false criminal complaint Annexure P-4 with ulterior motive to wreak vengeance against the petitioners. The counsel for the petitioners has further argued that the complaint Annexure P-4 is totally



false and the petitioners never caused any hurt to the religious sentiments of respondent and even the others allegations made against the petitioners in the complaint are totally false. It has been further contended that respondent is having criminal antecedents, as is evident from Annexure P-7 to Annexure P-12. It has been further argued that the respondent has not explained the delay in lodging of criminal complaint Annexure P-4 which is dated 20.04.2013 whereas the allegations with regard to commission of offences by the petitioners are relating to month of February, 2012. It has been further contended that criminal complaint Annexure P-4 and summoning order Annexure P-6 are not legally tenable and their pendency would result in miscarriage of justice.

7. I have considered the submissions made by counsel for the petitioners. The copy of FIR No.216 dated .03.09.2012 registered under Section 66-C of IT Act is also taken on record.

8. Precise case of the petitioners is that complaint Annexure P-4 sought to be quashed is a counter blast to FIR No.216 dated 03.09.2012 which was registered against Jappreet Singh son of the respondent on the basis of one complaint given by petitioners with regard to sending of fake email under the name of petitioner No.1. The Hon'ble Supreme Court in ***Salib @ Shalu @ Salim Vs. State of UP 2023 INSC 687*** observed that in cases where the quashing of FIR is sought essentially on the ground that the proceedings are based on ulterior motive for wreaking personal vengeance, the Court should look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines.

9. In para no.9 of complaint Annexure P-4, respondent/complainant



has specifically alleged that on 19.01.2012, the petitioners insulted and hurt the religious sentiments of the respondent, as they removed his turban and cut his hair with scissors and the petitioners also looted his valuable property documents i.e. lease deed, supplementary lease deed and sanctioned site plan of his school building and they also took away gold ornaments and had also shown disrespect to his religious prayer book and pictures of 10 sikh gurus. It is also the case of the respondent that he lodged complaint with the police with regard to said incident on 20.01.2012, but the police failed to take any action. The copy of the said police complaint is Annexure R-1, which is dated 20.01.2012. From the perusal of Annexure R-1, it appears that in the said complaint, respondent disclosed to the police that the aforesaid incident whereby the petitioners caused hurt to his religious sentiments took place on that very day i.e. 20.01.2012. Thus, as per the said police complaint Annexure R-1, the aforesaid incident detailed in para no.9 of complaint Annexure P-4 had taken place on 20.01.2012. However, the date of said incident was described as 19.01.2012 in complaint Annexure P-4 and as per deposition of CW Dr. Yogender Singh, the respondent disclosed to him that the said incident took place on 17.01.2012, as is clear from the affidavit of the said witness which is part of the record.

10. The other allegations leveled by the respondent are detailed in paras No.4, 7, 8, 11 to 14 of the complaint Annexure P-4.

11. In para no.4 of complaint Annexure P-4, it was alleged by the complainant that his son was remanded to one day police custody in criminal case having FIR No.216 dated 03.09.2012, registered under Sections 66-C of IT Act and during remand period, his son was harassed and beaten by accused No.5 Inspector Jagdish Prasad, the then SHO, Police Station DLF, Phase-II, Gurgaon and his subordinate police officials and was made to sign and put his



thumb impressions on number of plain and blank stamp papers. The accused No.3 Inspector Suresh Kumar, Incharge Cyber Cell, accused No.4 SL Sudhir Kumar, Cyber Cell and Inspector Jagdish Prasad, entered into criminal conspiracy with the petitioners to falsely implicate son of the complainant in above said FIR and fabricated evidence against him.

In para No.5 of complaint Annexure P-4, it was alleged that the son of respondent was juvenile but accused No.3 and 4 failed to do their duty as they did not produce the concerned documents with regard to proof of age of son of respondent in the Court. In para No.6 of the complaint Annexure P-4, it was alleged that accused No.3, 4 and 5 in collusion with the petitioners, used to keep confined the respondent for hours together and they persistently pressurized the respondent to accept their demands which also included illegal demand of Rs.10 lacs. The aforesaid police officials also used to threaten the respondent with dire consequences including false implication in some criminal case. In para no.7 of the complaint, it was alleged that the petitioners were regularly sending false and frivolous emails etc. to the senior police officers against the respondent. However, the police failed to take any action against the petitioners under IT Act. In para no.11 of the complaint, it was alleged that the petitioners intended to take over the school run by the respondent, which was situated just opposite to the house of the petitioners. Both the petitioners persistently demanded money from respondent in presence of the aforesaid police officials and forcing him to enter into an agreement to transfer the papers of school in their name. The accused persons hatched criminal conspiracy to extort money from respondent and thus, they made it impossible for the respondent to run his school. On account of the said illegal acts committed by the accused persons, respondent suffered huge losses. In



para No.12 of the complaint, it was alleged that on 17.05.2012, respondent was called to house of petitioners, where petitioners and accused No.3 and 4 threatened to eliminate the respondent and his family and to take over forcibly the school run by him, in case, he failed to accept their demands which also included demand of Rs.10 lacs. The accused also asked the respondent to submit an affidavit to the fact that age of his son is 17 years. However, the respondent managed to get time of 15/20 days to handover the amount of Rs.10 lacs demanded by the accused. In para No.13 of the complaint, it was alleged that even on 09.06.2012, all the said four accused again gave threats to the respondent to submit desired affidavit and also to accept their other demands or otherwise to face dire consequences. However, the respondent refused to sign any document or affidavit in favour of the accused persons. In para No.14 of the complaint, it was alleged that on 22.06.2012, both the petitioners repeatedly made telephone calls to the respondent which were attended by his wife and they threatened wife of the respondent, that in case their demands are not accepted, the entire family of respondent would be eliminated. In the said paragraph, respondent relied upon police complaints dated 20.01.2012 and 14.07.2012 Annexure A-2 and A-3 which were lodged by the respondent against the accused persons regarding aforesaid incidents.

As per allegations in police complaint Annexure R-1 dated 20.01.2012, petitioner No.1 took away laptop of son of the respondent from the school premises on 17.01.2012, as was disclosed to him by the chowkidar of the school. However, criminal complaint Annexure P-4 is silent with regard to any such incident of theft of laptop or its misuse by the petitioners.

12. Admittedly, complaint Annexure P-4 was filed by the respondent against the petitioners and other three accused persons before the Court



concerned on 20.04.2013. From the perusal of the aforesaid allegations, it appears that the respondent was persistently harassed and threatened with dire consequences in case, he failed to do the needful as was demanded by the accused persons. It means that petitioners and other accused persons made his life hell. No explanation is coming forward from the respondent as to why, he remained silent from 14.07.2012 till 20.04.2013 and did not lodge private criminal complaint against the accused persons in the Court of competent jurisdiction at the earliest, as he was fully aware that police officials are not going to take any action in his police complaints Annexure A-2 and A-3, they being inimical to him.

13. It is not disputed that petitioner No.1 lodged complaint with the police that someone had sent fake email Annexure P-1 to DTP, Gurgaon against the management of Gurgaon Valley School, DLF, Phase-II, Block-P, Sector 25, Gurgaon, under her name. Document Annexure P-2 dated 26.04.2012 addressed by petitioner No.1 to the Commissioner of Police, Gurgaon was in continuity of the aforesaid complaint. Cyber cell inquired into the matter and during said inquiry, google was asked to provide IP details of email ID used to send the said email and it was found that mobile phone number 9555963605 was used for creating said email ID and on further inquiry, it was found that the said mobile phone was used by Jappreet Singh son of respondent Sandeep Singh Bhatia and in the said inquiry, both the parties were associated and finally, FIR No.216 dated 03.09.2012 under Section 419 IPC and Section 66-C of IT Act was registered at Police Station DLF, Phase-II, District Gurgaon against Jappreet Singh son of the respondent. During investigation, Jappreet Singh was arrested on 12.09.2012 and he got effected recovery of his laptop and mobile phone which were used for creating



fake email ID under the name of petitioner No.1. Even, respondent was also nominated as an accused in the said criminal case but he was granted anticipatory bail. On presentation of challan Annexure P-3, the Court concerned framed charges against son of the respondent. Admittedly, Jappreet Singh filed CRM-M-17686-2015 seeking quashing of aforesaid FIR No.216 dated 03.09.2012 and final report submitted by the police and the order whereby charges were framed against him. The said petition was dismissed by this Court vide order dated 07.11.2024, on account of non prosecution as no one appeared on behalf of petitioner therein namely Jappreet Singh Bhatia on two consecutive dates. As per record till date, no one has approached this Court seeking recall of the said order dated 07.11.2024.

14. From the perusal of challan Annexure P-3 submitted by the police against son of the respondent in criminal case having FIR No.216 dated 03.09.2012, it is evident that other three accused namely Inspector Suresh Kumar, SI Sudhir Kumar and Inspector Jagdish Prasad were associated with the investigation of criminal case having FIR No.216/2012, which was registered against son of the respondent and during investigation, it was found that fake email was sent to the concerned authorities by son of the respondent. Even, the learned trial Court while passing summoning order Annexure P-6 came to the conclusion, that the allegations with regard to torture of son of respondent while he was in police custody are not proved as Jappreet Singh Bhatia did not step into witness box. The trial Court further observed that as far as the fabrication of documents in order to falsely implicate Jappreet Singh Bhatia has not been *prima facie* established and no evidence was produced by the respondent-complainant to make out offence of criminal conspiracy alleged to be hatched by the aforesaid police officials.



15. It appears that in preliminary evidence, respondent himself appeared in the witness box as CW-1 and also examined CWs Mithlesh Aggarwal, Notary Public, Dr. Yogender Singh, who proved MLR of the respondent, Kailash Chand Garg, an official of BSNL Gurgaon, Rajiv Sharda, Alternate Nodal Officer of Reliance Telecom, Israr Baber, Alternate Nodal Officer of Vodafone and Anoop Singh, Chowkidar of school who was engaged by Sandeep Singh Bhatia. After going through their statements, one thing is clear that respondent did not examine any police official during the preliminary evidence. It being so, respondent did not make any effort to prove police complaints dated 20.01.2012 and 14.07.2012 which are stated to be lodged by him with the police with regard to the incidents as are detailed in complaint Annexure P-4. Further, as per Annexures R-13 and R-14, it appears that when petitioner No.1 sought information under RTI Act, the concerned police authorities gave reply that no complaint dated 20.01.2012 to 22.01.2022 was received by the police from the side of Sandeep Singh Bhatia. Further, the respondent has failed to explain as to why he kept on waiting till 20.04.2013 to file complaint Annexure P-4. From the perusal of statement of CW Dr. Yogender Singh, it appears that he medico legally examined the respondent on 13.07.2013, with regard to alleged incident dated 17.01.2012 that is after more than one year and six months of the alleged occurrence of hurting the religious sentiments of respondent by the petitioners. The allegations made in complaint Annexure P-4 are not *prima facie* established and further the said allegations seems to be highly absurd and inherently improbable.

16. In light of the aforesaid facts and circumstances, it could be easily made out that complaint Annexure P-4 is manifestly attended with malafides and has been maliciously instituted with an ulterior motive for wreaking



vengeance on petitioners and with a view to spite them due to private and personal grudge and to pressurize the petitioners to settle the dispute with regard to FIR No.216 dated 03.09.2012 which was registered on the complaint lodged by petitioner No.1 against son of the respondent, after the matter was properly inquired into by the police authorities. Having carefully perused the contents of the complaint Annexure P-4 sought to be quashed vis a vis FIR dated 03.09.2012, it could be easily inferred that complaint Annexure P-4 is counter blast to the aforesaid FIR.

17. In the light of the aforesaid discussion, the contention of the petitioners that the criminal complaint Annexure P-4 being filed by the respondent with an ulterior motive to wreak vengeance against the petitioners, deserves acceptance.

18. For the foregoing reasons, the present petition is allowed and criminal complaint No.481 of 2013 titled Sandeep Singh Bhatia Vs. Rita Chowdhary and others (Annexure P-4) and summoning order dated 25.11.2014 (Annexure P-6) passed by the Court of Judicial Magistrate Ist Class, Gurgaon (now Gurugram) and all the subsequent proceedings arising therefrom are quashed qua both the petitioners, only.

19. However, it is made clear that the observations made herein above are meant for the purpose of disposal of the present petition only.

30.01.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No