

2025:PHHC:103187



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

**CRM-M-33782-2012
DATE OF DECISION: 02.07.2025**

KAPIL DEV**...PETITIONER**

Versus

JATINDER NATH AND ORS.**... RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Manish Verma, Advocate for
Mr. J.S. Lali, Advocate
for the petitioner

SANDEEP MOUDGIL, J. (Oral)

1. The jurisdiction of this Court has been invoked under Section 482 Cr.P.C., for quashing of order dated 30.11.2011 (Annexure P-2) passed by learned Additional Sessions Judge, Panchkula and order dated 26.02.2009 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Panchkula in complaint No.116/1 dated 30.09.1999 vide which the accused were ordered to be discharged.

2. Factual matrix of the case succinctly put forth are that on on 5.9.1999, at about 9.00 AM, when the petitioner was coming from his fields on his tractor and was carrying six bags of maize crop and suddenly all the respondents, in connivance with each other, stopped the complainant/petitioner and snatched the six bags of maize crop and gave beatings to the petitioner and when the petitioner raised hue and cry, at that time father of the complainant/petitioner, who was

working in nearby fields, came to the spot and all the respondents/accused also gave beatings to the father of the complainant. Respondent No.1 gave Lathi blow on the right leg of the petitioner and respondent No.2 gave a lathi blow to the father of the petitioner. All the other respondents also gave kicks and fist blows to the petitioner as well as his father. Further all the accused, while leaving the spot, threatened the petitioner of dire consequences, if he does not withdraw the civil suit. All the accused also took away the six bags of maize crop.

3. Thereafter, the petitioner alongwith his father went to the police station Raipur Rani and narrated the whole occurrence to the police officials. However, the police officials refused to lodge the complaint against the respondents. It is pertinent to mention here that petitioner and his father were also medically examined at Civil Hospital, Raipur Rani. When the police refused to take any action against the respondents, the complainant filed a complaint under Sections 156(3) Cr.P.C. against the respondents. The said complaint was sent to the police station, Raipur Rani for registration of the case, but the police submitted cancellation report and the petitioner did not agree with the same and filed a protest petition.

4. The petitioner led the preliminary evidence and examined himself as CW-1 and also placed on record the copy of the MLR as Ex.C1 and further examined CW-2 Narinder Nath and closed the preliminary evidence. After going through the preliminary evidence thoroughly and carefully, the Id.JMIC, Panchkula summoned the accused respondents for offence under Sections 323/506 read with 149 IPC vide order dated 21.05.2005 and on 26.02.2009, the court of Id.JMIC, Panchkula discharged the accused without taking into consideration the evidence led by the petitioner.

5. Learned counsel for the petitioner contends that after going through the preliminary evidence, the learned Judicial Magistrate 1st Class, Panchkula vide order dated 21.05.2005 summoned the respondents-accused for offence under Sections 323/506 read with Section 149 of IPC, 1860. However, vide order dated 26.02.2009, the learned Judicial Magistrate 1st Class, Panchkula discharged the respondents-accused without taking into consideration the evidence put forth by the petitioner (Annexure P-1). He further contends that aggrieved against the said order, the petitioner filed a revision petition before the Court of Additional Sessions Judge, Panchkula, which was also dismissed vide order dated 30.11.2011 (Annexure P-2)

6. It is vehemently argued by the counsel for the petitioner that both the above mentioned orders have been passed in an arbitrary manner, wherein the respondent-accused was summoned and cognizance of offence was taken by the Magistrate and sufficient evidence in the form of medico legal reports, Civil Hospital, Raipur Rani were available on record to make a prima facie case for framing of charge and proceeding with the trial Court.

7. Heard learned counsel for the petitioner.

8. Before delving into the merits of the case, it is apposite to peruse section 245 Cr.P.C which is reproduced herein below:

245. When accused shall be discharged.

(1)If, upon taking all the evidence referred to in Section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2)Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for

reasons to be recorded by such Magistrate, he considers the charge to be groundless.

9. Section 245 essentially says that if the prosecution fails to present sufficient evidence to support a conviction, the accused should be released from the charges. The Magistrate has a duty to assess the evidence and, if it's insufficient, to discharge the accused. The Magistrate also has the discretion to discharge the accused earlier if the charges are clearly without basis.

10. In essence, Section 245 provides a mechanism for a Magistrate to dismiss a case if the evidence presented by the prosecution is weak or the charges are unfounded, preventing unnecessary trials and protecting the accused from frivolous accusations.

11. Coming back to the case in hand and after meticulously perusing the record at hand, it is evident that father of the complainant-petitioner, who is alleged to have been injured when examined as CW-2, though tried to narrate the facts in consonance with the complaint, but when the complainant on whose behest the report was lodged himself stepped into the witness box as CW-1 narrated an entirely different version as alleged in the complaint. Further it is pertinent to mention that the complainant has alleged that they were rescued by the passer by including Surta Ram @ Bhangi and Ashok Kumar, but despite availing separate opportunities none of these witnesses were examined by the complainant in order to corroborate his version and also no plausible action was given by him as to why these witnesses could not be examined by him.

12. Moreover, the complaint was sent to the police station under Section 156(3) Cr.P.C., wherein after investigation the police filed cancellation report and

it also stands admitted by the complainant in his cross-examination that Kalandra under Section 182 Cr.P.C., was filed against him for giving wrong information.

13. It is a settled proposition of law under Section 245 Cr.P.C., that if the evidence of the complainant is of such a nature, no case against the accused can be made out then the Magistrate shall discharge him.

14. In the light of discussions made hereinabove and law discussed, this Court is of the firm view that the petitioner has failed to make out his case since there is no infirmity and perversity in the orders passed by the Court below dated 26.02.2009 (Annexure P-1) and 30.11.2011 (Annexure P-2).

15. Accordingly, the instant petition stands dismissed being devoid merits.

16. The orders dated 26.02.2009 (Annexure P-1) and 30.11.2011 (Annexure P-2) passed by the Courts below are hereby upheld.

17. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

02.07.2025

Meenu

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*