



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

CRM-M-38516-2021 (O&M)
Date of decision: 09.01.2025

Balbir Kaur and others

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Kumar Saini, Advocate
for the petitioners.

Mr. Nitesh Kumar, DAG, Punjab.

Mr. Arihant Jain, Advocate with
Mr. Kanish Jindal, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition is preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of order dated 06.08.2021 (Annexure P-16) passed by learned Sessions Judge, Patiala whereby order dated 31.01.2020 (Annexure P-11) passed by the learned Judicial Magistrate Ist Class, Patiala, accepting the cancellation report and dismissing the protest petition filed by respondent No.2, was set aside, in the case stemming from FIR No. 257 dated 13.08.2005 registered under Sections 419, 465, 466, 468, 469, 471 and 120-B IPC at Police Station Kotwali, Patiala.
2. Tersely put, the facts of the present case are that respondent No.2 was recommended for the post of *Pujari* in Dharam Arth, Patiala on 14.11.1990 and requisite documents were sought from him. However, one Baljinder Singh filed



a complaint against respondent No.2 for submitting false and forged school leaving certificate. An enquiry was conducted and it was found that respondent No.2 was never enrolled with the school that allegedly issued the said certificate. On further enquiry, it was found that the date of birth of respondent No.2 as per the school leaving certificate did not match the date claimed by him. Further, SSP Patiala was requested to register a case against respondent No.2 and accordingly, FIR No. 68 dated 01.03.1991 under Sections 465, 468, 471, 420 & 511 IPC was registered. However, respondent No.2 was acquitted in the same vide judgment dated 31.07.2004. Moreover, a civil suit was also filed by respondent No.2 seeking mandatory injunction against the concerned department to allow him to join as *pujari*. The suit was allowed but the same was upturned by the first Appellate Court vide judgment and decree dated 26.11.1991. A second appeal was filed against the same which was dismissed.

3. About 16 years later, one Bhim Chand informed respondent No.2 that the petitioners, in connivance with each other, had prepared a false application in the name of Baljinder Singh and it was in fact, petitioner No.1 who had signed the same in his name. In pursuance of this information, respondent no.2 filed a private complaint under Section 156(3) Cr.P.C. causing FIR No. 257 under Sections 419, 465, 466, 468, 469, 474, 120-B IPC to be registered against petitioners No.2 and 3. However, on investigation, a cancellation report was moved by the investigating agency. The learned trial Court ordered further investigation but due to lack of evidence, a cancellation report was submitted again. Respondent No.2 filed a protest petition but upon recording of preliminary evidence, the learned trial Court vide order dated 31.01.2020 dismissed the same by concluding that the material available on the record is



insufficient to summon the accused. However, a revision petition was moved by respondent No.2, which was allowed vide impugned order dated 06.08.2021.

4. Leaned counsel for the petitioners *inter alia* contends that the learned Revisional Court failed to consider that Baljinder Singh has never denied his signatures on the complaint filed by him against respondent No.2. Pertinently, the complaint under Section 156(3) Cr.P.C. was filed after a huge delay as respondent No.2 was interviewed for the post of *Pujari* on 22.12.1989 and he was recommended for the same on 14.11.1990. Moreover, petitioner No.1, who is a senior citizen and an asthma patient, is being repeatedly harassed by respondent No.2 in spite of the fact that there is no evidence available against her. A perusal of the deposition of respondent No.2 as CW-4 clearly indicates that the complaint and the protest petition have only been filed by respondent No.2 to satisfy personal vendetta.

5. *Per contra* learned counsel for respondent No.2 submits that the petitioners, in connivance with each other, had filed a false and fabricated complaint against respondent No.2. Respondent No.2 moved a complaint reporting his occurrence as soon as he found out about the same through Bhim Chand. Moreover, at the stage of taking cognizance, the learned trial Court is only supposed to look at the allegations levelled and ensure that a *prima facie* case is made out against the accused. The learned trial Court is not required to venture into the defence of the accused at this stage. He further submits that the impugned order shows due application of judicial mind by the Revisional Court and as such, no interference by this Court is merited. Reliance in this regard is placed on the judgments rendered by the Hon'ble Supreme Court in ***Sonu Gupta vs. Deepak Gupta and others (2015) 3 SCC 424*** and this Court in



Sanjay Singh vs. Bikram Singh Majithia 2021(1) R.C.R.(Criminal)271 and ***Sibu vs. Mohinder Singh 2002(1) R.C.R.(Criminal) 165.***

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that on the basis of information received from one Bhim Chand, who appeared as CW-2, respondent No.2 filed a complaint against the petitioners alleging that they had filed a false and forged complaint against him in the name of one Baljinder Singh in the year 1990. Allegedly, CW2-Bhim Chand testified that on 25.12.2004, petitioner No.3 approached him to testify against respondent No.2 in the matter stemming from FIR No. 68 dated 01.03.1991. However, that does not align with the timeline of the events as respondent No.2 stood acquitted in the said case on 31.07.2004 itself. Further, the report of FSL, Chandigarh was also inconclusive, as such, no reliance can be placed upon the private expert (CW3- Dr. Navdeep Gupta).

7. A perusal of the record indicates that the parties were also involved in civil litigation previously, which was ultimately decided against respondent No.2. Moreover, the complaint filed by respondent No.2 was investigated twice, however, cancellation report was submitted at both instances for the lack of any evidence against the petitioners. As such, the conduct of respondent No.2, in the given factual background, suggests that criminal prosecution has been initiated against the petitioners merely to nurse a personal grudge.

8. A two Judge bench of the Hon'ble Supreme Court in ***Suresh Garodia vs. State of Assam and another 2024(1) R.C.R.(Criminal) 649*** quashed an FIR registered 39 years after the occurrence of the alleged offence.

Speaking through Justice B.R. Gavai, the following was opined:



“13. We find that lodging a case after 34 years and that too on the basis of a bald statement that the prosecutrix was a minor at the time of commission of offence, could itself be a ground to quash the proceedings. No explanation whatsoever is given in the FIR as to why the prosecutrix was keeping silent for a long period of 34 years. The material on record shows that the relationship was consensual, inasmuch as the son who is born out of the said relationship has been treated by the appellant as his son and all the facilities, including cash money, have been provided to him.”

9. Learned Revisional Court has failed to appreciate that the post of pujari was advertised in the year 1989 and respondent No.2 was recommended for the same in the year 1990. However, the complaint (supra) alleging that the petitioners, in connivance with each other, filed a false complaint against respondent No.2 in the name of Baljinder Singh by the petitioners, was filed after an inordinate and unconscionable delay of about 16 years. The learned Revisional Court has fallen into grave error by ignoring this fact and remanding the matter back to the learned trial Court. As such, the findings of the learned Revisional Court are not legally sustainable.

10. This Court is of the considered opinion that such unscrupulous and unethical practice must be condemned and sternly believes that it is of the utmost importance to ensure that the stream of justice is not clogged by ill-intended, vexatious proceedings, which further burdens the already overworked Courts. The odious act of initiating criminal prosecution to satisfy personal vendettas is clearly an atrocious abuse of the process of law, which cannot go unchecked. The sanctity of the judicial process cannot be allowed to be smeared by letting ill-intentioned, resentful litigants to use it as an instrument of oppression.



11. In view of the discussion above, the present petition is allowed and the impugned order dated 06.08.2021 (Annexure P-16) passed by learned Sessions Judge, Patiala is hereby set aside. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

09.01.2025
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No