

2026:PHHC:049676



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

SR. NO.104

**CRM-M-34833-2023 (O&M)
RESERVED ON:19.03.2026
PRONOUNCED ON:30.03.2026**

SANDEEP AND OTHERS

...PETITIONER(S)

VERSUS

SUNITA AND ANOTHER

...RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present: Mr. Deepinder Singh, Senior Advocate with
Mr. Nipun Gupta, Advocate
Mr. Mayank Sarpal, Advocate
Mr. Dharamveer Singh, Advocate
for the petitioners.

Ms. Sunita-respondent No.1 in person with
Mr. A.K. Ranolia, Advocate
for respondent No.1.

Mr. Rajiv Sidhu, Sr. DAG, Haryana.

N.S. SHEKHAWAT, J.

1. The petitioners have filed the present petition under Section 482 Cr.P.C. with a prayer to quash Criminal Complaint No. 193 of 2015 under Sections 148/149/307/452/120-B/506 and Section 25 of the Arms Act titled as 'Sunita Vs Manjit & Ors (Annexure P-5), summoning order dated 6.02.2018 passed by the Court of JMIC Gurugram (Annexure P-8) as well as order dated 01.06.2023 (Annexure P-10) passed by the Additional Sessions

Judge, Gurugram, whereby the petitioners have been summoned to face trial under Sections 148/149/452//506/307 IPC.

2. Learned counsel for the petitioners contended that the respondent/complainant, namely, Sunita, had instituted a criminal complaint (Annexure P-1) against the petitioners and others, in the Court of Area Magistrate Gurugram on 06.08.2013, with regard to an incident dated 03.11.2011. The said complaint remains pending before the Judicial Magistrate First Class Gurugram, however, on 12.08.2013, she had withdrawn the criminal complaint and stated that she will file a complaint after attaching important documents with it. Again, on 17.08.2013, the respondent filed a second complaint on the same set of allegations (Annexure P-3). During the course of preliminary evidence, the matter was adjourned repeatedly on 07.10.2013, 08.11.2013, 12.12.2013, 17.01.2014, 25.02.2014, 30.04.2014, 18.07.2014, 26.09.2014, 04.11.2014, 02.01.2015, 26.02.2015, 20.03.2015, 15.04.2015, 02.06.2015. Thereafter, the trial Court vide order dated 01.08.2015 dismissed the complaint filed by the respondent by passing the following order:-

“Present: None for the complainant

Today the case was fixed for complainant evidence. Case called several times since morning, but despite several calls, neither the Counsel nor the parties have appeared before the Court. The cost of Rs. 1000/- was imposed on the complainant which was also not paid by the complainant. It is already 3.00 PM. Further wait is not justified. Hence, the present complaint filed by the complainant is hereby dismissed in default for want of prosecution. File be consigned to the record room after due compliance.”

3. Learned counsel next submitted that respondent No. 1/complainant again filed a third complaint No. 193 of 2015 under sections 148/149/307452/120-B IPC and Section 25 of the Arms Act against the same accused, including the petitioners, regarding the same incident and the copy of the complaint dated 07.08.2015 was annexed as (Annexure P-5). Thereafter, the respondent herself appeared as CW-7, her husband Manoj Kumar as CW-6, and other witnesses were also examined. Vide order dated 06.02.2018, the JMIC Gurugram, summoned the petitioners only under Sections 148, 149, 452, 506 IPC and held that no offence under Section 307 IPC was made out against the petitioners. The summoning order (Annexure P-8) was challenged by respondent No. 1/complainant, before the Court of Sessions Judge Gurugram and vide the impugned order dated 01.06.2023, the revision petition was partly allowed and it was held that even the offence under Section 307 IPC was made out against the present petitioners also. Learned senior counsel submits that the respondent No. 1/complainant is in the habit of filing repeated complaints by levelling the same set of allegations. Even earlier, there was no incriminating evidence against the petitioners, and even on inquiry by the police, the allegations were found to be false.

4. Learned senior counsel further submitted that respondent No. 1/complainant also approached this Court vide CRM-M-37326 of 2011 with a prayer for registration of FIR against the petitioners and others and to get the case investigated in detail. However, this court vide orders dated 11.07.2012 and 25.04.2013 directed the police authorities of Gurugram to decide the representation filed by the petitioners and to take appropriate

direction passed by this Court and the allegations were found to be false. Even there was no evidence to show that the petitioners were present at the place of occurrence or had hatched any kind of conspiracy against the petitioners and others. Even when the summoning order was passed, the investigation was still pending on the direction of this Court and the courts had not adhered to the provision of Section 210 Cr.P.C.

5. Learned Senior Counsel further submitted that the revisional court wrongly held that the offence under Section 307 IPC was also made out against the petitioners in the present case, which violates the mandate of the provision of Section 319 Cr.P.C. He further submitted that successive complaints regarding the same incident could be entertained only under very rare and exceptional circumstances, which is not the case here. Even the complaints have been filed only with a view to harass the petitioners due to old enmity between the parties. Apart from that, there is also one very important aspect of the matter. In fact, the police from the very beginning was doubting that CW6 Manoj Kumar had sustained firearm injury on his own. Consequently, Dr. Satish Yadav had taken swabs from both hands of CW-6 Manoj Kumar (injured) at the time of his medical examination at 7.30 a.m. on 03.11.2011, i.e. soon after sustaining the alleged injury, and such swabs were also sent to the Forensic Science Laboratory, Madhuban, for chemical analysis. The FSL report, Exhibit CW8/E, revealed that the hand swabs were examined for gunshot residue and nitrate was detected on both the hands. Learned senior counsel referred to the FSL report (Annexure P-14) in this regard and submitted that the firearm injuries suffered by CW-6 Manoj Kumar were self-suffered injuries. Thus, even the third complaint is liable to be dismissed solely on this ground alone.

6. Learned Senior Counsel further submitted that the families of the petitioners, as well as CW-6 Manoj Kumar had been entertaining hostilities towards each other for the last about ten years. On 18.07.2008, the brothers of CW-6 Manoj Kumar, namely, Rakesh and Sanjay, and others had opened a murderous assault on the co-accused of the petitioners. They fired indiscriminately, and Hari Om suffered multiple and serious injuries on his person. Consequently, one FIR No. 233 dated 19.07.2008 under relevant Sections 148/149/323/427/452/458/307/506 IPC read with Section 25 of the Arms Act was registered against the brothers of CW6 Manoj Kumar. Further, Rakesh, son of Shiv Narayan, co-accused, was elected as Sarpanch of village Hayatpur in 2011. CW6 Manoj Kumar and his brothers, namely Rakesh and Sanjay, had formed a group of hardcore criminals in the area and they were forcibly taking possession of the agricultural lands and the plots of weaker sections. Even, Rakesh, Sarpanch, mustered courage and started making complaints against their illegal activities to higher authorities and the group of gangsters led by the brothers of **CW6** Manoj Kumar killed Rakesh, Sarpanch by firing gun shots at Rakesh, Sarpanch. Even several other FIRs have also been registered against the family members of the complainant CW6 Manoj. Thus, the present petition is liable to be allowed by this Court.

7. On the other hand, learned counsel appearing on behalf of respondent No. 1 submitted that the petitioners had been rightly summoned by the revisional court and the petitioners have raised several disputed questions of fact. Apart from that, it has been wrongly alleged that the injuries suffered by CW6 Manoj could be self-suffered. However, the

Still further, CW8 ASI Dalvir Singh admitted that he had recovered a bullet shell and blood-stained earth from the place of occurrence. Still further, all the accused were members of an unlawful assembly and were armed with deadly weapon and had forcibly entered into the house of the complainant. Learned counsel further submitted that since earlier criminal complaints were not decided on merits, the present complaint was maintainable before this Court and the petitioners have been rightly summoned by both the courts.

8. I have heard learned counsel for the parties and perused the record in the present case.

9. In the present case, as per the admitted case of respondent No. 1/complainant, the alleged occurrence had taken place at about 7:00 a.m. on 03.11.2011, wherein it was alleged that Manjit, Sandeep, along with three other persons, trespassed into their house and Manjit fired a gunshot at the husband of the complainant, which passed close to his ear. Manjit fired another shot, which hit on the left thigh of Manoj, husband of the complainant, and he saved his life by locking himself in a room. It has been alleged that the petitioners, namely Sandeep, Maman, Mintu @ Dinesh Yadav, Kambu @ Karambir and Mehendi @ Pappu @ Amit Kumar, used to threaten the complainant and her husband and wanted to kill him. Still further, the complaint (Annexure P-1) was filed for the first time before the Court of the Area Magistrate, Gurgaon, on 06.08.2013, i.e, after a period of about one year and nine months. Even in the complaint, there is no explanation by respondent No. 1/complainant for instituting the complaint after such a long delay. Surprisingly, on 12.08.2013, the complaint

that the complainant wanted to submit more important documents with the complaint. Again, a complaint (Annexure P-3) was filed by respondent No. 1/complainant by levelling the same allegations against the petitioners and others. Thereafter, there is no denial to the fact that the second complaint was taken up by the Judicial Magistrate on 14 dates and effective opportunities were granted to respondent No. 1/complainant to lead preliminary evidence. However, on all 14 effective dates, no evidence was led by respondent No. 1/complainant and ultimately the second complaint (Annexure P-3) was dismissed by the Court of Judicial Magistrate First Class on 01.08.2015 by passing the above-mentioned order as recorded in para Thereafter, respondent No. 1/complainant again filed a third complaint (P-5) against the petitioners with the same set of allegations. This time, she appeared herself as CW7 and her husband Manoj Kumar, injured victim, was examined as CW6.

10. From a bare perusal of the complaint, the allegations levelled by respondent No. 1/complainant are sadly vague and unbelievable. In fact, while filing a criminal complaint, it is required to be brought to the notice of the Court that all particulars of the offence committed by each and every accused and the role played by each accused in the commission of that offence. The three complaints instituted by respondent No. 1/complainant do not depict the exact role played by the accused in the present case, except Manjit and Sandeep. Under these circumstances, it would be an abuse of the process of law to allow the prosecution to continue against all the petitioners when the allegations are apparently wrong, unbelievable and vague. Still further, the three complaints were filed by the complainant with regard to an

forthcoming for not approaching the Court of the Area Magistrate for a period of one year and nine months, when the first complaint Annexure P-1 was instituted.

11. Still further, it is also apparent from the conduct of respondent No. 1/complainant that she was more interested in harassing the petitioners/accused in the present case rather than pursuing her remedies in accordance with law. She filed her first complaint (Annexure P-1) on 06.08.2013 after about one year and nine months of the alleged occurrence. She withdrew the said complaint on 12.08.2013 by making an excuse that she wanted to file some important documents with the complaint. She filed her second complaint (Annexure P-3) on 17.08.2013 by leveling almost similar allegations. Again, she was granted 14 effective opportunities by the Judicial Magistrate 1st Class and as per zimni orders (Annexure P-4) she was present on almost every date of hearing before the trial court but still did not produce any evidence at all. Ultimately, the second complaint was also dismissed by the Area Magistrate on 01.08.2015. Thereafter, immediately, respondent No. 1/complainant, filed the third complaint (Annexure P-5) on 07.08.2015 and even after a period of 15 years, these complaints are at the stage of summoning only. This clearly shows that respondent No. 1/complainant has filed the complaints only to abuse the process of the court, and such tendency needs to be curbed by the courts.

12. Still further, this court in the matter of **Bachan Singh versus Amrik Singh, 1979 CLJ (Criminal) 173**, held as follows:-

“3. I have heard the learned counsel for the parties and have very carefully gone through the record of the trial Court. It is to be noted that the occurrence in question had taken place on 7th May, 1974. The first complaint in respect thereof was filed by

Amrik Singh against the four accused petitioners, as stated at the bar by the counsel for the petitioners on 22nd December, 1974. The same was dismissed in default of appearance of the complainant, when the accused were present in person on 8th September, 1975. The second complaint on the same facts and under the same sections, as it was in case of the first complaint, was filed against all the four accused persons on 16th September, 1975, Paras 7 and 8 of that complaint, which relates to the reason for non-appearance of the complainant on 8th September, 1975, when his first complaint was dismissed in default of his appearance read as under :

"7. That the complainant fell sick on 8th September, 1975 and should not attend this Court in this case. The case was dismissed in default due to his absence from the Court on that day.

8. That the complainant did not absent intentionally."

The third complaint, i.e., the present one on the same facts and under the same sections, was filed by the aforesaid complainant on 2nd November, 1976. The reason given by him for his non-appearance in Court on 30th October, 1976, when his second complaint was dismissed in default of his appearance is contained in paras Nos. 7 and 8 of this third complaint which are verbatim copy of paras 7 and 8 of the second complaint excepting that the date of the complainant falling sick is given therein as 30th October, 1976. In other words, both in the second complaint and in the third complaint, the same reason of his falling ill was given by the complainant on the respective dates when the first and the second complaints were dismissed in default of his appearance. No medical certificate or an affidavit was attached by the complainant in support of the averments made in those paras of both the second and the third complaints. From the said conduct of the complainant, it appears that the successive complaints were filed by him with the obvious intention of

causing harassment to all the four accused-petitioners without taking any concrete steps for their prosecution. Accordingly, it can reasonably be said that there has been abuse of process of Court on as many as two occasions and consequently, the proceedings filed by the complainant against the four accused-petitioners for the third time must be quashed by this Court in exercise of its inherent powers under section 482, Code of Criminal Procedure, 1973, in the interest of justice.

*This view finds support from the view taken by the High Court in **Bir Singh and others v. State through Beedoo, AIR 1952 Allahabad 610**. In that case, it was held as under : -*

"The inherent powers of the High Court can be exercised at any stage and in any case where it is necessary to give effect to any order under the Code of Criminal Procedure, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Ordinarily, the High Court will not interfere at an interlocutory stage of any proceedings pending before a subordinate Court, but in exceptional cases it may become necessary to do so for the reasons just mentioned. In view of the circumstances mentioned above, the present case is of such an exceptional case. The applicants had on three previous occasions been subjected to unnecessary harassment, and a similar attempt is being made again. The applicants had intimated to the trial Court what had happened on the previous occasions at the earliest opportunity - as soon as they appeared in obedience to the summonses issued against them and when they were unsuccessful in the courts below, they have come upto this Court. As the successive complaints were filed with the obvious intention of causing harassment to the applicants and there had been abuse of the process of the Court on as

many as three occasions, the sooner the proceedings are terminated the better in the interest of justice."

This decision was given by the High Court in exercise of its inherent powers under Section 561A, Code of Criminal Procedure, 1898, the equivalent of which is section 482 of the Code of 1973.

4. The learned counsel for the complainant-respondent has contended that plausible explanation for the non-appearance of the complainant on two dates when his previous two complaints were dismissed in default of appearance had been given by him in the subsequent complaint filed by him and that whatever delay occurred in prosecuting the same expeditiously it evident from the orders of the trial Court passed in each case and there-I fore, tins Court should be reluctant to exercise its is inherent powers under section 482. Code of Criminal Procedure, 1973. I find no merit in this contention of the learned counsel. The conduct of the complainant-respondent in the present third complaint and also in the previous two complaints appears to be that he was not serious in prosecuting the same against the accused and his intention appeared to be of causing harassment to them. The alleged occurrence had taken place on 7th May, ,1974. Now, it is the last month of 1978. For such a long period, the accused-petitioners have been unnecessarily harassed by the complainant by launching three successive complaints against them without diligently prosecuting the same. Thus, it can safely be said that there has been abuse of the process of Court and. therefore, it is a fit case in which the proceedings initiated against the petitioners on the basis of third complaint be quashed in the interest of justice by this Court in exercise of its inherent powers under section 482, Code of Criminal Procedure, 1973. 1973, as already observed above."

13. Still further, in the present case, it has been alleged that the

three/four other persons had trespassed into their house. Manjeet fired a gun shot on the husband of the complainant, which did not hit him. Thereafter, Manjeet fired another gun shot, which hit the left thigh of the husband of complainant and he saved his life while locking himself in a room. Admittedly, the complainant and her husband were empty-handed and five/six accused, duly armed, had allegedly entered their house with an intention to kill them. It is understandable as to how or what stopped such assailants from attacking the complainant side further while there was no resistance from the complainant side. Still further, I find sufficient force in the submission made by the learned senior counsel that the police was entertaining a doubt from the very beginning that the injuries suffered by CW6 Manoj, injured, could be self-suffered and the hand swabs of CW-6 Manoj Kumar, injured, were also taken. It is apparent from the FSL report, (Annexure P-14), it is established that nitrate was detected on both hands of the injured, while his hand swabs were examined for gunshot residue. This clearly shows that the injury in question on the person of CW-6 Manoj Kumar was a self-inflicted injury. Apart from that, this court has also perused the hostility between the petitioners and the family of the complainant for the last 10 years, which has been explained in detail in para no. 26 of the present petition. It is also apparent that the family members of the present complainant are hardened criminals, who are facing several criminal cases and there are allegations against them that they had eliminated Rakesh, Sarpanch, son of one of the co-accused, in the present case. Even the family members of the complainant had open murderous assault in the past on the family members of the accused in the present case

with a view to pressurize the family members of the accused in the present case.

14. Hon'ble the Supreme Court, while discussing the law on quashing of criminal proceedings, has laid down the following illustrations in the case titled as '***State of Haryana versus Ch. Bhajan Lal and others***', 1992 AIR Supreme Court 604:

"(1) Where the allegations made in the first information report or the complaint, even if they are 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific

provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

15. In view of the above discussion, the Criminal Complaint No. 193 of 2015 under Sections 148/149/307/452/120-B/506 and Section 25 of the Arms Act titled as 'Sunita Vs Manjit & Ors (Annexure P-5), summoning order dated 6.02.2018 passed by the Court of JMIC Gurugram (Annexure P-8) as well as order dated 01.06.2023 (Annexure P-10) passed by the Additional Sessions Judge, Gurugram are quashed along with all subsequent proceedings arising therefrom. Pending application(s), if any, shall stand disposed of.

24.03.2026
mks

(N.S.SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO