

Des Raj and Another Vs. State of Punjab and Others

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Court : Punjab and Haryana

Decided On : Feb-19-2014

Appellant : Des Raj and Another

Respondent : State of Punjab and Others

Judgement :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CRM No.M-26551 of 2013 (O&M) Date of Decision: February 19, 2014 Des Raj and another ...Petitioners VERSUS State of Punjab and others ...Respondents CORAM: HON'BLE Mr.JUSTICE INDERJIT SINGH Present: Mr.Parshotam Lal Singla, Advocate for the petitioners.Mr.V.P.S.Sidhu, Asstt.

Advocate General, Punjab for the respondent-State.

Mr.H.S.Gill, Advocate for respondents No.2 and 3.

**** INDERJIT SINGH, J.

Petitioners Des Raj and Suman have filed this petition against State of Punjab, Sharanjit Kaur and Balwinder Singh under Section 482 Cr.P.C.for quashing of FIR No.155 dated 27.10.2012 under Sections 324, 307, 34 IPC (Section 307 IPC added later on) registered at police station Goraya District Jalandhar being false and has been got registered with oblique motives and malafide intentions qua the petitioners and for setting aside the order dated 22.04.2013 passed by learned Addl.

Sessions Judge, Jalandhar vide which the petitioners have been summoned under Section 319 Cr.P.C.to face the trial.

Gulati Vineet 2014.03.06 15:07 I attest to the accuracy and integrity of this document Chandigarh CRM No.M-26551 of 2013 -2- The brief facts, as stated in the petition, are that a false FIR has been registered at the instance of complainant-respondent No.2 Sharanjit Kaur vide which the petitioners have been falsely implicated and there is no such occurrence as alleged by the complainant.

It is further stated that FIR has been registered on the allegation that on 24.10.2012, complainant and her husband were going to the house of Pal Singh.

At about 6.00/6.30 P.M.when they were returning to their house and came in front of the house of Des Raj, then Des Raj raised alarm that Balwinder Singh be caught hold and should not be spared.

Des Raj armed with handle of water pump, Babbu armed with datar, Tony armed with datar and Suman armed with danda caught hold Balwinder Singh.

Babbu gave datar blow to Balwinder Singh which hit on his head, Tony gave datar blow on the front of the neck of Balwinder Singh and Babbu again gave datar blow on the right arm of Balwinder Singh.

It is also alleged that Des Raj gave blow of handle of water pump and Suman gave blow of danda on the person of Balwinder Singh.

When the complainant raised alarm, all the accused ran away from the spot with their respective weapons.

It is stated in the petition that story is false and concocted one and the petitioners have been made scapegoat and have been falsely implicated.

It is also stated that petitioner No.1 filed a criminal complaint under Sections 416, 465, 468, 471 and 120-B IPC and the trial Court summoned the accused persons (of that case) for forcibly taking possession of agricultural land from petitioner No.1 which Gulati Vineet 2014.03.06 15:07 I attest to the accuracy and integrity of this document Chandigarh CRM No.M-26551 of 2013 -3- belongs to Dera Smadh

Baba Desu.

Santokh Singh and his associates approached this court for quashing the complaint and summoning order, which was dismissed by this Court vide order dated 17.05.2013.

Thereafter, Jog Raj, brother of petitioner No.1 filed an application to DSP Phillaur on 27.06.2009 that these persons will demolish the building of Dera Smadh Baba Desu but the police did not take any action and Santokh Singh, Pal Singh, Balwinder Singh and their associates demolished the Dera.

The petitioners also submitted an application against accused persons on 23.02.2010.

Then the above-mentioned persons attacked at the house of the petitioners and petitioner No.1 got seriously injured.

The trial is going on against the above-mentioned accused persons.

It is further stated in the petition that in spite of the compromise and assurance given by respectables on 24.10.2012 at 6.15 P.M., Santokh Singh again attacked at the house of petitioner No.1 but he was not in the house.

It is also stated in the petition that as per MLR, there are three injuries on the person of injured with sharp edged weapon.

No blunt injury was found on the person of injured Balwinder Singh.

Notice of motion was issued and learned counsel for respondent-State and private respondents appeared and contested the petition.

At the time of arguments, learned counsel for the petitioners argued that there is prior litigation between the petitioners and the injured Balwinder Singh, which was earlier got compromised but again even after that, the complainant attacked the petitioners etc. Gulati Vineet 2014.03.06 15:07 I attest to the accuracy and integrity of this document Chandigarh CRM No.M-26551 of 2013 -4- Learned counsel for the petitioners further argued that the petitioners have been falsely implicated in

the present case.

Petitioner No.1 was stated to be armed with handle of water pump and it is stated that injury was given to Balwinder Singh.

Suman was also stated to be armed with danda and has been attributed blow on Balwinder Singh but as per MLR, there was no injury with blunt weapon and the only injuries with sharp edged weapon were found.

Learned State counsel and learned counsel for private respondents argued that in the FIR as well as in the evidence, the eye witness has specifically stated that the petitioners have given injuries with handle of water pump and with danda.

There is chance that no visible injury has been found at the time of examination.

I have gone through the record and have heard learned counsel for the petitioners and learned State counsel as well as learned counsel for private respondents.

From the record, I find that it is admitted fact that earlier litigation is pending between the parties.

As per FIR, three injuries with sharp edged weapon have been attributed to sons of Des Raj (petitioner No.1).As per MLR, three injuries have been found.

No injury with blunt weapon on the person of Balwinder Singh was found as per the MLR.

Challan was presented by the police after investigation against sons of Des Raj, who have been attributed sharp edged injuries.

As per the FIR, petitioner No.1 Des Raj was armed with handle of the water pump and he gave injury to Balwinder Singh.

Similarly, Suman was stated to be armed with danda and she also Gulati Vineet
2014.03.06 15:07 I attest to the accuracy and integrity of this document
Chandigarh CRM No.M-26551 of 2013 -5- gave injury to Balwinder Singh.

But no such injuries were found on the person of Balwinder Singh as per the MLR, which means that oral evidence of the witnesses is not supported by any medical evidence.

Further, I find that it cannot be held that it appears to the Court that these petitioners have also caused injuries to Balwinder Singh.

The version given in the FIR and also the oral statements, are not supported and corroborated by medical evidence and even during investigation, both these petitioners were found innocent by the Investigating Officer.

Therefore, from the above, I find merit in the present petition, especially in view of the fact that earlier litigation is pending between the parties and there is every chance of naming of both these petitioners in the FIR as well as in the statements in the Court and further no corroboration by medical evidence.

As regarding the argument that only revision lies against the order passed under Section 319 Cr.P.C., I find that in the present case, the petition is also filed for quashing of the FIR qua the petitioners. Therefore, the present petition under Section 482 Cr.P.C. is maintainable.

Learned counsel for private respondents has cited judgment passed by the Hon'ble Supreme Court in *Ajay Kumar Das versus State of Jharkhand and another*, 2011(4) R.C.R.(Criminal) 231.

I have gone through this citation and the same having distinguished facts will not apply in the present case as that was not the case of summoning under Section 319 Cr.P.C. Gulati Vineet 2014.03.06 15:07 I attest to the accuracy and integrity of this document Chandigarh CRM No.M-26551 of 2013 -6- Therefore, from the above discussion, I find merit in the present petition and the same is allowed.

FIR No.155 dated 27.10.2012 under Sections 324, 307, 34 IPC (Section 307 IPC added later on) registered at police station Goraya District Jalandhar qua the petitioners as well as summoning order dated 22.04.2013 passed by learned Addl.

Sessions Judge, Jalandhar and subsequent proceedings are hereby quashed.

February 19, 2014 (INDERJIT SINGH) Vgulati JUDGE Gulati Vineet 2014.03.06
15:07 I attest to the accuracy and integrity of this document Chandigarh

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