

(1979) 05 P&H CK 0011

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 773 of 1975

Bishan Dayal

APPELLANT

Vs

Hanuman and others

RESPONDENT

Date of Decision: May 17, 1979

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 107

Hon'ble Judges: S.S. Dewan, J

Bench: Single Bench

Advocate: R.K. Chhokar, for the Appellant; Ashok Aggarwal, for the Respondent

Final Decision: Dismissed

Judgement

S.S. Dewan, J.

The Respondents Hanuman and three others were bound down u/s 107 Code of Criminal Procedure and ordered to execute the bond in the sum of Rs. 500/- each to keep the peace for six months or in default to undergo simple imprisonment for the same period. The appeal filed by them was accepted by the learned Additional Sessions Judge, Narnaul. Feeling aggrieved, the Petitioner Bishan Dayal has come up to this Court on the revision side.

2. The allegations against the Respondent are that Bishan Dayal (now Petitioner) filed a complaint against the Respondents in the Court of Chief Judicial Magistrate Narnaul; that on 13th June 1974 at about 4.00 p.m. all the Respondents came armed with lathis to the house of the Petitioner and mounted an attack on him and demanded that he should withdraw his criminal complaint against them failing which he would have to face the consequences ; that the Petitioner did not agree to oblige them and, therefore, the Respondents gave him filthy abuses and belaboured him with lathis, slaps and fists. In these circumstances, the Petitioner apprehended breach of peace at the hands of the Respondents. The Respondents denied these allegations. The petitioner examined Inder PW besides himself coming into the

witness-box. The trial magistrate found that there was motive for the Respondents to belabour the Petitioner and he ordered them to execute the requisite bond as indicated above.

3. I have gone through the record and cannot find any suggestion by any of the prosecution witnesses that there was apprehension of breach of peace. The evidence, in fact, wholly falls short of showing that there was any likelihood of the breach of peace. It has been pointed out over and over again by this and the other Courts that the mere existence of enmity between the persons or factions is no ground for initiating proceedings u/s 07 Code of Criminal Procedure against one or both the parties. In order to bring a case within that section it must be established that a breach of the peace is imminent. On the record of the present case I can find nothing to warrant such an apprehension. It was strenuously urged on behalf of the Petitioner that in the appeal filed in the lower appellate court, State was not impleaded as a party by the Respondents and due to this omission, the appeal was not maintainable. In support of this contention, the learned Counsel relied on two decisions Ram Chand v. Jesa Ram 76 I.C. 642 and Karimyllah v. Phool Chand 1972 Cr. C. J. 930. It may be mentioned that the facts of the said two cases are entirely different and have no application to the facts of our own case. In those cases, the accused were convicted and sentenced under cognizable offences and the State was a necessary party whereas in the present case, the State was never a party in the trial court and, therefore, there was no illegality or even a fatal irregularity in not impleading the State as a Respondent in the appeal and, therefore, the lower appellate court was justified in over-ruling the objection raised by the Petitioner. No other point was urged by the learned Counsel.

4. In the result, the revision petition fails and is herein dismissed.