

(2012) 02 P&H CK 0316

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal M. No. M-50375 of 2007

Raj Kumar Arora

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Feb. 13, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 186, 353

Citation: (2012) 2 ILR (P&H) 863

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Advocate: Sanjay Kaushal, for the Appellant; Palwinder Singh, Senior DAG Punjab for Respondent No. 1, S.C. Khunger, Advocate and Nemo, for the Respondent

Judgement

Mehinder Singh Sullar, J.

The epitome of the facts and material, which needs a necessary mention for the limited purpose of deciding the sole controversy, involved in the instant petition and emanating from the record, is that a petrol pump outlet was allotted to the daughter of petitioner in the year 2006 on the road leading from Lahori Gate to Islamabad Road, Amritsar. She was stated to have obtained "No objection certificates" as were required from the various agencies, including the District Magistrate, Punjab Pollution Control Board, Chief Agriculture Officer, District Controller Food & Civil Supplies and Consumer Matters, Divisional Forest Officer and Senior Superintendent of Police etc. According to the petitioner that Inderjit Singh Bularia (respondent No. 3), who was Municipal Councilor (for short "the MC") and sitting MLA of ruling party at the relevant time, also owned and operated another petrol pump styled as M/s. Bularia Indian Oil, outside Lahori Gate in the same vicinity. He made all efforts to thwart the setting up of petrol pump of the daughter of the petitioner. Accordingly, the petitioner was stated to have demolished his house to unable her daughter to run the petrol pump after obtaining the "No

Objection Certificate" from the Municipal Corporation as well. Thereafter, the Indian Oil Corporation, which was to set up the pump in question, started digging the land to put/fix the petrol tanks. It further infuriated respondent No. 3 and he started applying every kind of pressure on the Administration as well as the police authorities to implicate the petitioner in false cases. Sequelly, the case of the petitioner further proceeds that apprehending danger, he filed CRM No. M-48628 of 2007 on 11.10.2007 for providing protection to his life and liberty. The matter came up for hearing before the High Court on 12.10.2007 and notice of motion was issued to the respondents for 12.11.2007. As soon as, the notice reached to the police authorities as well as respondent No. 3, in the meantime, Saranjit Singh complainant-respondent No. 2, Building Inspector (for brevity "the complainant") was pressurized and he lodged a false criminal case with altogether baseless allegations that the petitioner did not allow him to enter in his premises to see the on going position. Thus, he (petitioner) has interfered in the discharge of his official duty. In the background of (only) these allegations and in the wake of statement of complainant, the present case was registered against the petitioner, vide FIR No. 200 dated 16.10.2007 (Annexure P3) for the commission of offences punishable under sections 186 and 353 IPC by the police of Police Station Islamabad, District Amritsar.

2. The petitioner did not feel satisfied with the registration of the criminal case and preferred the instant petition for quashing the FIR (Annexure P3) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr. PC, inter-alia pleading that he never stopped the complainant to inspect the site in question and a false criminal case was registered at the instance of sitting MLA (respondent No. 3) vexatiously and maliciously against him in order to wreak vengeance. According to the petitioner even if the vague allegations alleged in the FIR by the complainant are taken to be true at its face value, even then, no offences whatsoever under Sections 186 & 353 IPC are made out against him. On the strength of aforesaid grounds, the petitioner sought to quash the FIR (Annexure P-3) and all subsequent proceedings arising therefrom, in the manner indicated hereinabove.

3. The respondents refuted the prayer of petitioner and State of Punjab filed its reply, taking certain preliminary objections of, maintainability of the petition, cause of action and locus standi of the petitioner. The prosecution claimed that since the petitioner has stopped to deter the complainant in the discharge of his official duty, so, he committed the indicated offences. Instead of reproducing the entire contents of the reply and in order to avoid the repetition of facts, suffice it to say that respondent No. 1 has reiterated the allegations contained in the FIR (Annexure P3). However, it will not be out of place to mention here that respondent No. 1 has stoutly denied all other allegations contained in the main petition and prayed for its dismissal.

4. After hearing the learned counsel for the parties, going through the record with their valuable help and after deep consideration over the entire matter, to my mind, the present petition deserves to be accepted in this respect.

5. As is evident from the record, that the daughter of petitioner obtained "No objection certificate" from all the authorities required to install the petrol pump in question as mentioned here-in-above. It has specifically been admitted in the reply of State that respondent No. 3 was M.C. and sitting MLA at the relevant time and was operating the petrol pump, styled as Bularia Indian Oil, Lahori Gate, Nawan Kot, Amritsar in the same vicinity. The Municipal Corporation issued "No objection certificate" to the petitioner for installation of petrol pump, vide order, bearing No. K/1297 dated 29.6.2006.

6. What cannot possibly be disputed here is that the only allegations contained in the FIR are that on 3.10.2007 at about 11.30 AM, the complainant alongwith Shakti Sagar Bhatia, MTP went to supervise the unauthorized construction in plot No. 8, Daim Ganj, but petitioner stopped and did not allow them to supervise the site in question owned by him. No overt act or any specific part is attributed to the petitioner. Allegations of the F.I.R. as vague as anything. How and in what particular manner, the petitioner stopped to deter the complainant in discharge of his official duty, are deeply lacking in this respect. There is neither any other allegation against the petitioner nor the learned counsel for respondents No. 1 and 2 have pointed out any material/evidence, much less cogent, even to suggest remotely that any offences whatsoever punishable under sections 186 and 353 IPC are made out against him.

7. Likewise, again it is not a matter of dispute that the petitioner filed a protection petition, bearing CRM No. M-48628 of 2007 on 11.10.2007, in which, notice of motion was issued to the respondents, including respondent No. 3 (herein) for 12.11.2007, by means of order dated 12.10.2007, whereas the present case was registered against the petitioner on 16.10.2007 pertaining to the incident of 3.10.2007. In this manner, it is clear that having come to know about the filing of indicated protection petition, the police lodged the present false criminal case against the petitioner, vexatiously, maliciously, in order to save their skin and to wreak vengeance under the pressure and influence of respondent No. 3, who admittedly was MC and MLA at the relevant time.

8. Meaning thereby, the bare reading of the FIR (Annexure P3) and in the absence of any material, muchless cogent, to me, no such offence is made out against the petitioner. The allegations made in the FIR even if they are taken at their face value and accepted in their entirety, *prima facie* do not constitute/disclose the commission of any offence or make out a case against the petitioner. The allegations made in the FIR against the petitioner 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 him. The complainant appears to have vexatiously

and maliciously involved the petitioner in order to wreak vengeance and the criminal proceeding is manifestly attended with mala fide against him. Such reckless/malafide FIR deserves to be quashed, in view of the law laid down by Hon'ble Apex Court in case State of Haryana and others Vs. Ch. Bhajan Lal and others, which was again reiterated in case Som Mittal versus Government of Karnataka 2008(2) R.C.R. (Crl.) 92.

9. Thus, seen from any angle and keeping the vague accusation against the petitioner, into focus, to my mind, the FIR against him is sheer and complete misuse/abuse of process of law. The matter squarely falls within the purview of indicated Bench mark set out in the aforesaid judgments. In this manner, the contrary submissions of learned counsel for respondent Nos. 1 and 2 that the above-mentioned offences are made out against the petitioner "stricto sensu" deserve to be and are hereby repelled under the present set of circumstances. The ratio of law laid down in the indicated judgments "mutatis mutandis" is applicable to the facts of the present case and is the complete answer to the problem in hand. Therefore, the impugned FIR (Annexure P-3) and all other subsequent proceedings arising therefrom, cannot legally be sustained and deserve to be quashed, in the obtaining circumstances of the case.

10. No other legal point, worth consideration, has either been urged or pressed by the counsel for the parties. In the light of aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR (Annexure P-3) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioner is accordingly discharged from the indicated criminal case.