

Lt. Col. Jagdish Singh Brar (Retd.) Vs State of Punjab and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 23, 2013

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 173, 482
Penal Code, 1860 (IPC) â€” Section 148, 149, 427, 452, 465

Hon'ble Judges: Ram Chand Gupta, J

Bench: Single Bench

Advocate: Baldev Singh and Mr. Arshvinder Singh, for the Appellant;

Judgement

Ram Chand Gupta, J.

The present petition filed u/s 482 Cr. P.C. is for quashing of FIR No. 229, dated 17.5.2010, under Sections 465,

467, 468, 471 IPC, registered at Police Station Division No. 5, Civil Lines Ludhiana, District Ludhiana, Annexure P5, report u/s 173 Cr. P.C.

dated 1.4.2011, Annexure P6, and the subsequent proceedings going on in the Court of Chief Judicial Magistrate Ludhiana. I have heard learned

counsel for the petitioner and have gone through the whole record carefully.

2. Briefly stated, complainant is wife of younger brother of petitioner-accused. Husband of complainant expired on 28.2.2002. As per allegations,

petitioner-accused used to harass her and used to torture her and that he used to enter her house alongwith so many persons and used to try to

take possession of the house by breaking open the locks. Regarding the said allegations, she lodged FIR No. 170 of 2004 dated 28.9.2004,

under Sections 452, 427, 506, 148, 149 IPC at Police Station Sarabha Nagar, Ludhiana. The said FIR was duly enquired into and, however,

cancellation report was filed by the police before the Magistrate and the same was accepted. The present FIR bearing No. 229 dated 17.5.2010

has been lodged by complainant again against the petitioner-accused in which she has mentioned that petitioner used to torture her and was having

an eye upon her property and that he entered her home on 3.6.2004 without informing her and that he tried to enter her house by breaking open

the lock on 16.6.2009 and she lodged complaint with the police but no action was taken. She has also stated that earlier she had lodged an FIR

under Sections 452, 427, 506, 148, 149 IPC and, however, no action was taken by the police. She had also levelled specific allegations of forging

Will of her husband Manjit Singh, who already expired on 28.2.2002. There are also allegations that petitioner also forged her signatures and had

given an application to the Bank of Baroda for release of the sale deed of one shop and that he also forged her signatures on the application moved

before SDM, West Ludhiana. The matter was duly enquired by senior police officers and only thereafter the present FIR was lodged.

3. It has been contended by learned senior counsel for the petitioner-accused that earlier FIR was duly enquired into and cancellation report was

filed and however, on the same allegations, the present FIR has been lodged, which cannot be sustained in the eyes of law. He has also placed

reliance upon Amitbhai Anilchandra Shah Vs. The Central Bureau of Investigation and Another, and Udai Shankar Awasthi Vs. State of U.P. and

Another, .

4. I have carefully gone through both the FIRs lodged in this case, i.e., earlier FIR No. 170 dated 28.9.2004 and subsequent FIR No. 229 dated

17.5.2010.

5. Second FIR was lodged after about six years of the lodging of the first FIR. In the first FIR very vague allegations have been made by the

complainant regarding her harassment by the petitioner alongwith some other persons just to take forcible possession of her house. However, in

the present FIR though she has given reference of earlier FIR and the earlier act of harassment being committed upon her by the petitioner-accused

and, however, the main allegations are regarding acts of forgery being committed regarding preparation of forged Will and using the same to usurp

the property of her husband which was inherited by her.

6. There are specific allegations that petitioner-accused forged the Will of husband of the complainant and that he has also forged her signatures

and an application was given to the Bank of Baroda, Gurdev Nagar, Ludhiana, for release of sale deed of shop and he also forged her signatures

on one application moved before SDM West Ludhiana. These allegations were not in the earlier FIR. The matter was duly enquired by senior

police officer before registration of the present FIR. Police had also obtained admitted signatures of the complainant and the same were sent to

FSL Chandigarh alongwith disputed signatures and report came that the disputed signatures do not tally with the admitted signatures of the

complainant.

7. Hence, in view of fresh allegations regarding forgery made by the complainant, it cannot be said that the second FIR is on the same allegations

on which earlier FIR was lodged. Hence, none of the judgments referred above by learned senior counsel for the petitioner is applicable to the

facts of present case. In view of these facts, the present petition filed by petitioner-Lt. Col. Jagdish Singh Brar (Retd.) for quashing of FIR is,

hereby, dismissed being devoid of any merit.