courtkutchehry.com

Company : Sol Infotech Pvt. Ltd.

Website : www.courtkutchehry.com

Printed For :

Date : 24/08/2025

# Hardev Johal Vs State of Punjab

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Aug. 7, 2014

**Acts Referred:** Penal Code, 1860 (IPC) â€" Section 354, 506, 509

**Hon'ble Judges:** Ajay Tewari, J

**Bench:** Single Bench

**Advocate:** B.S. Rana, R.S. Cheema, Sr. Advocates, K.S. Nalwa and Rajinder Singh, Advocate for the Appellant; Amarjit Kaur Khurana, Addl. AG, Punjab and Gautam Dutt, Advocate for the Respondent

**Final Decision:** Disposed Off

## Judgement

Ajay Tewari, J.
This order shall dispose of the above mentioned two petitions as both of them have arisen out of a common FIR. Since

common questions of law and fact are involved, they are being disposed of by this common order.

2. By way of CRM-M No. 34485 of 2012, the petitioner has sought quashing of FIR No. 200 dated 24.12.2011 (Annexure-16) registered under

Sections 354, 506, 509 IPC, at Police Station Phillour, District Jalandhar.

3. The allegations are that the complainant is the wife of one Harminder Singh Johal and there are many litigations, both civil and criminal, pending

between them. The brother of Harminder Singh Johal (petitioner herein) has been accused of trying to force the complainant to compromise the

issue and on 08.12.2011, apart from offence under Sections 506, 509 IPC one of two unknown persons accompanying the petitioner(in the court

complex) also outraged the modesty of the daughter of the complainant by "pressing her breast". The precise argument raised in this petition is that

the allegation regarding Section 354 IPC was fraudulently and illegally added and in fact, the complaint dated 20.12.2011 in this regard is a pre-

dated document which has been infused in the record subsequently. Apart from the said argument, to corroborate this assertion the petitioner

averred in para 6 (ix) of the petition as follows:-

That as even after the supplementary statements of respondents No. 4 and 5 dated 21.12.2011 recorded in the second enquiry, no offence was

made out against the petitioner, shockingly an antedated and fabricated supplementary statement of respondent No. 5 dated 20.12.2011 was

introduced. As the enquiry report dated 21.12.2011 does not refer to any such statement dated 20.12.2011, it is clear that the same is an

antedated and fabricated document prepared after the report dated 21.12.2011.

In the alleged statement dated 20.12.2011 major improvements were made by responders No. 5 in her previous statement dated 16.12.2011 and

21.12.2011. It was alleged in this fabricated statement that on 8.12.2011 two unknown persons had accompanied the petitioner at Court

complex, Phillaur and one of them touched her breast and pulled her towards himself and said she should go to abroad with them. It is further

shocking that this occurrence within the court complex and outside the court room goes unnoticed by the court staff, police men and litigants

present outside the court room. Respondent No. 5 further stated that she is now telling the correct facts with regard to the occurrence dated

8.12.2011. The copy of the fabricated and antedated statement of Davinder Kaur dated 20.12.2011 is annexed herewith as Annexure P-14.

4. In reply to this sub para the State has averred as follows:-

That the contents of sub para No. ix of the petition are wrong and hence denied. It is submitted that the concerned police never fabricated the

statement of respondents No. 4 and 5 in the case in hand. The concerned police acted in accordance with law in the case in hand. It is relevant to

mention here that the petitioner had committed unlawful acts alleged against him by the respondent Nos. 4 and 5.

5. Likewise in her reply the complainant averred as follows:-

It is wrong to allege that no offence is disclosed from the complaint. It is submitted that the various statements recorded in the case, and as a result

of enquiry/enquiries, the FIR was rightly registered in the case. Thereafter, upon collecting material, final report was submitted in the case. Now the

case is fixed for framing of the charge. Now while sitting in Canada the petitioner has filed the present petition, which is liable to the dismissed.

6. It is clear from perusal of the rival stands that no explanation has been given as to when this document was submitted and to whom. On the basis

of the record and on the instructions from ASI Surinder Singh, learned Additional Advocate General, Punjab has fairly conceded that the original

document does not contain the signatures of any authority to whom it may have been submitted nor is there any contemporaneous record showing

that it was received on 20.12.2011.

7. The second limb of arguments of learned senior counsel is that the complainant and her daughter made four/five different statements respectively

to the police. In the original complaint dated 10.12.2011 the averment is that three advocates tried to force the complainant into compromising

with the brother of the petitioner. In that complaint even the presence of the petitioner at the time of the occurrence is not alleged. Thereafter the

complainant and her daughter both appeared before police on 16.12.2011. The complainant reiterated her complaint Annexure P-2. The daughter

also reiterated the complaint. Thereafter chronologically the alleged letter dated 20.12.2011 was written. Again on 21.12.1011 the complainant

and her daughter made a statement to the police where they stated that the petitioner was also present inside the court complex and had used

derogatory remarks against the complainant. Both stated that in the complaint and in the first statement they could not repeat the derogatory

remarks due to shame. However, interestingly the allegations purportedly made on 20.12.2011 again do not find mention in these statements.

Again on 31.12.2011 the complainant and her daughter made statements to the police in which they both have stated that the petitioner was

standing outside the court complex and was making derogatory remarks against them. Last statement was made on 15.02.2012 in which the

complainant stated that the petitioner met them outside the court complex and misbehaved with her daughter. Her daughter also stated that on

08.12.2011 the petitioner met them outside the court complex where he manhandled her and tried to snatch away the paper from her. The

contention of learned senior counsel for the petitioner that in this case the police has taken all the divergent statements made by the complainant

and her daughter as gospel truth and have rather in a mala fide manner even added predated documents to the record of the case to make the

offence more serious and cognizable. The alternate prayer made is that investigation of this entire complaint as well as the circumstances in which

the document Annexure P-14(complaint dated 20.12.2011) found its way into the record be handed over to an independent agency preferably the

Central Bureau of Investigation.

8. Learned counsel for the complainant and the learned Addl. Advocate General are not in a position to specifically explain how this document

Annexure P-14 made its way into the official record since admittedly it does not bear the signature of any official who may have accepted it nor is

there any report entered regarding its receipt or any memo evidencing that the document was indeed submitted. As shown above the reply to the

specific averment in this regard is far from satisfactory. In fact it does not answer the question at all. They have however argued that now that the

case is before the Court, the Court would apply its mind to all the circumstances including the alleged infirmities and, therefore, there is no

requirement either to quash the FIR or to hand over the investigation to any other agency. As a matter of fact both the petitioner and the

complainant have alleged that the police is acting in a partisan manner with both parties alleging that it is favouring the other side.

9. In my considered opinion the views expressed by both sides are too extreme. It is correct that a matter which has been pending for four years

cannot now be ordered to be started from scratch. On the other hand it cannot be denied that no explanation has been given as to the

circumstances in which the complaint Annexure P-14 dated 20.12.2011 came on the record of the case despite a specific averment made in this

regard. Learned Addl. Advocate General, as mentioned above, has also had to admit that the said document neither bears the signature or seal of

any officer or official nor is there any contemporaneous record of its receipt. The omission to mention this in the statement made on

21.12.2011(when the complainant had, as per her own saying, overcome her feeling of shame) and also the fact that this allegation was not

reflected in the subsequent statements Annexures P-19 and P-38 coupled with the fact that the allegations regarding Section 354 IPC have not

been made against the petitioner nor there is an allegation that the unknown person did it at his behest do give rise to the conclusion that the

document Annexure P-14 dated 20.12.2011 was a predated document which had been subsequently and dishonestly introduced into the official

record just to make the case more serious and to convert it into a cognizable offence.

10. Resultantly the offence u/s 354 IPC has to be deleted from the FIR. Ordered accordingly.

11. Petition stands disposed of.

CRM-M No. 22838 of 2014

12. This petition has been filed challenging the order dated 09.05.2014 passed by learned SDJM, Phillaur whereby the application of the petitioner

for exempting his personal appearance has been rejected and non-bailable warrants have been issued.

13. In view of the order passed in CRM-M No. 34485 of 2012, the entire complexion of this case would change and consequently the trial Court

would examine the necessity of the presence of the petitioner afresh. Obviously the order by which non-bailable warrants have been issued to

secure the presence of the petitioner would be rendered inoperative till such time as the trial Court re-examines this issue.

14. Petition stands disposed of.

15. A copy of this order be given dasti to learned counsel for the petitioner under the signatures of the Special Secretary of the Court.