



**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**CRM-M-42734-2017**

**Reserved on: 10<sup>th</sup> March, 2025**

**Pronounced on: 18<sup>th</sup> March, 2025**

Baksho and others

...Petitioners

Versus

Ramesh Kumar

...Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Malkeet Singh, Advocate for the petitioners.

Mr. Partap Singh Gill, *Amicus Curiae* for the respondent.

\*\*\*

**MANISHA BATRA, J :-**

Challenge in this petition is to the criminal complaint bearing No. COMI/31/16 titled as '*Ramesh Kumar Vs. Joginder Pal and others*' as pending before the Judicial Magistrate First Class, SBS Nagar and to the summoning order dated 29.07.2017, whereby the petitioners were ordered to be summoned to face trial for commission of offences punishable under Sections 148, 323 and 452 of IPC as well as consequential proceedings having emanated therefrom.

2. For the sake of continuity and coherence, hereinafter the parties shall be referred to as per their original nomenclature as given before the learned trial Court.

3. As per the allegations levelled in the complaint filed by the complainant, on the night of 10.08.2014, the accused while being armed



with weapons, had criminally trespassed into his house and had opened an assault upon his family members and himself. His father and himself had sustained injuries at the hands of the accused. His family members were abused and insulted by them. The clamour raised by him attracted the neighbourers who had rushed for their rescue and then the assailants fled away. The cause of grudge was that the accused were jealous due to the fact that the local Gurdwara authorities had conferred honour upon Malkit Chand, cousin brother of the complainant and they were offended due to that fact. Though the police was informed and also recorded their statements but no action was taken, thereby compelling the complainant to file the complaint.

4. In preliminary evidence, the complainant examined four witnesses, besides placing reliance upon certain documents. Vide order dated 29.07.2017, the learned trial Magistrate issued process as against the accused for commission of offences punishable under Sections 323, 452 and 148 of IPC by observing that a *prima facie* case for commission of the aforementioned offences had been made out as against them.

5. Feeling aggrieved from the order dated 29.07.2017, the present petition has been filed.

6. It is argued by learned counsel for the petitioners-accused that the impugned complaint as well as order of summoning them as accused is not sustainable in the eyes of law as while passing the impugned order, the learned trial Court did not apply its judicious mind. A non-speaking order has been passed. The evidence produced on record has not been properly appreciated. The fact that there was delay of more than four months in filing



of the complaint had also not been taken into consideration. General and vague allegations had been levelled against the petitioners. The evidence produced on record did not make out any case for commission of offences punishable under Sections 323, 452 and 148 of IPC. Hence, it is argued that the impugned complaint and order dated 29.07.2017 are liable to be set aside. It is urged that the petition be accepted and the complaint as filed by the respondent be dismissed.

7. *Per contra*, Mr. Partap Singh Gil, appointed as Amicus Curiae for respondent-complainant has argued that no ground for allowing the petition has been made out as there was overwhelming evidence on record to prove the factum of commission of offences for which the petitioners-accused have been summoned. It is argued that the order passed by the learned trial Magistrate did not warrant any inference. Accordingly, it is urged that the petition is devoid of any merit and is liable to be dismissed.

8. I have considered the submissions as made by learned counsel for the petitioners-accused and have gone through the material placed on record.

9. The petitioners are aggrieved by the order passed by the learned trial Court thereby summoning them as accused. The well settled proposition of law is that at the stage of summoning the accused on the basis of a private complaint, all that is required is a satisfaction by the Magistrate that there is sufficient ground to proceed against the accused in the light of the record made available and the evidence adduced by the complainant. At that stage, the Magistrate has to find out whether a *prima facie* case has been made out against the accused or not? The Magistrate is not required to meticulously



appreciate the evidence at the stage of Sections 203/204 of the Code of Criminal Procedure (which is *pari materia* to Sections 183 and 184 of BNSS) and all that the Magistrate has to do is to see whether on a cursory perusal of the complaint and the evidence recorded during preliminary inquiry under Sections 200 or 202 of Code of Criminal Procedure (which is *pari materia* to Sections 180 and 182 of BNSS) that there is *prima facie* evidence in support of the charge levelled against the accused. The Magistrate has to see whether or not, there is sufficient ground for proceeding against the accused and in that process, the Court is not required to weigh the evidence meticulously. The Magistrate has to be satisfied whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons. Reliance in this regard be placed upon the observations made by Hon'ble Supreme Court in ***Jagdish Ram Vs. State of Rajasthan and another, (2004) 4 SCC 432.***

10. Now coming to the peculiar facts of the present case. In support of the allegations as levelled in the complaint, the complainant examined himself besides producing eye-witnesses CW-2 Nitin Kumar, CW-3 Swarn Ram, his father and one of the injured and the doctor who had conducted their medico legal examination besides examining himself as a witness. On a collective perusal of their statements, it is apparent that the witnesses so examined duly supported the allegations as levelled in the complaint. Their statements are *prima facie* sufficient to prove the factum of commission of



offences punishable under Sections 148, 323 and 452 of IPC. The submissions which have been raised by learned counsel for the petitioners call for determination on questions of fact which may be adequately adjudicated upon only by the trial Court and even the submissions made on the point of law also can be more appropriately gone into only by the trial Court. It is also well settled that adjudication of question of facts and appreciation of evidence or examining reliability or credibility of the version does not fall within the arena of jurisdiction under Section 482 of Cr.P.C. The legal position on the issue of quashing of criminal proceedings is well settled that the jurisdiction to quash a complaint, FIR or a chargesheet should be exercised sparingly and only in exceptional cases. However, where the allegations made in the FIR or the complaint or material on record even if taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused, a chargesheet may be quashed in exercise of inherent powers under Section 482 of Cr.P.C.

11. On considering the contentions raised by learned counsel for the parties and going through the contents of the impugned complaint as well as the impugned order, I am of the considered opinion that it is not a case which can be determined or gone into the petition under Section 482 of the Cr.P.C. There is nothing on record to suggest that the criminal proceedings as initiated by the complainant by filing complaint are manifestly attended with any *mala fide* and maliciously instituted with any ulterior motive for wreaking vengeance on the accused or with a view to spite them with due to private or personal grudge. Rather, it appears that the impugned order has



been passed by applying due procedure and no substantial illegality, perversity or any substantial error could be pointed out by learned counsel for the petitioners in the same. In my considered opinion, though this Court possesses inherent powers under Section 482 of Cr.P.C. which are very wide but the very plenitude of the power requires great caution in its exercise and this inherent power cannot be exercised to stifle a legitimate prosecution. Such powers have to be exercised only to give effect to any order under Cr.P.C. to prevent abuse of process of the Court and to secure the ends of justice. In the instant case, no such eventuality could be drawn. Finding no substantial illegality, perversity or any other error in the order passed by the learned trial Court, it is held that the petition does not deserve to be allowed. Accordingly, the petition is dismissed.

**[MANISHA BATRA]**  
**JUDGE**

**18<sup>th</sup> March, 2025**

*Parveen Sharma*

- |                                      |   |            |
|--------------------------------------|---|------------|
| 1. <i>Whether speaking/ reasoned</i> | : | <i>Yes</i> |
| 2. <i>Whether reportable</i>         | : | <i>Yes</i> |