
(2012) 11 SHI CK 0034
In the High Court Of Himachal Pradesh
Case No : Cr.MP (M) No. 1069 of 2012

Charan Singh Thakur and Others

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 12-11-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 173, 438, 439
Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 323

Citation : (2012) 11 SHI CK 0034

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Advocate : C.N. Singh, for the Appellant; Vinod Thakur, Dy. A.G., M/s. Satyen Vaidya and Ajay Kochhar, for the Respondent

Judgement

Kuldip Singh, Judge

1. This judgment shall dispose of Cr.MP(M) Nos. 1069, 1073, 1074 and 1084 of 2012 filed by the petitioners for releasing them on bail in FIR No. 161 of 2012 dated 5.11.2012 registered at Police Station Sadar, District Shimla under Sections 147, 148, 149, 307, 323, 341, 440 and 506 IPC. Cr.MP(M) No. 1069 of 2012 has been filed u/s 438 Cr.P.C., Cr.MP(M) No. 1073 of 2012 has been filed u/s 438 Cr.P.C., Cr.MP(M) No. 1074 of 2012 has been filed u/s 439 Cr.P.C. and Cr.MP(M) No. 1084 of 2012 has been filed u/s 439 Cr.P.C.

Cr.MP(M) No. 1069 of 2012

It has been stated that petitioners No.1 and 4 are self employed, petitioners No. 2, 6, 7, 8 to 10 are agriculturists and petitioner No. 3 is working in State Bank of India. It has been stated that petitioners are innocent, they have committed no offence. On account of registration of the above case, the petitioners are apprehending their arrest. The petitioners are ready to join investigation. The submission has been made for releasing the petitioners on bail.

Cr.MP(M) No. 1073 of 2012

2. It has been stated that petitioner is innocent, he has committed no offence. On account of registration of above case, the petitioner is apprehending his arrest. The petitioner is ready to join the investigation, furnish bail bonds. The submission has been made for releasing the petitioner on bail.

Cr.MP(M) No. 1074 of 2012

3. It has been stated that petitioner is innocent, he has committed no offence. The petitioner has been falsely implicated in the case. The petitioner is lodged in jail. The further detention of the petitioner is not necessary. The petitioner is ready to furnish bail bonds. The submission has been made for releasing the petitioner on bail.

Cr.MP(M) No. 1084 of 2012

4. It has been stated that petitioner is innocent. The petitioner has been falsely implicated in the case. The petitioner has been arrested on 6.11.2012. The petitioner earlier moved Cr.MP(M) No. 1069 of 2012, interim bail was granted on 7.11.2012 but petitioner was arrested on 6.11.2012. The petitioner is ready to furnish bail bonds. The submission has been made for releasing the petitioner on bail.

5. The status reports separately have been filed in Cr.MP(M) Nos. 1069 of 2012 and 1084 of 2012. It has been stated that till now following are accused namely Inder Pal, Ankush, Pradeep, Narinder, Pushpinder, Naval Kishor, Vijay Thakur, Sunil Mehta, Anup Thakur, Rohit Thakur alias Sunny and Virender Thakur alias Bindu.

6. It has been stated that FIR has been registered on the statement u/s 154 Cr.P.C. of Jitender Thakur. The complainant has stated that on 4.11.2012 he, his brother Mohan and Pradeep, Narinder and Pushpinder had an argument over some issue. Pradeep, Narinder and Toshu gave beatings to the complainant and his brother. The matter was reported to the police.

7. On 5.11.2012 at about 6.00 p.m. the complainant and Mehar Chand were going to their homes in a car. Mohan elder brother of the complainant was also going on motorcycle to home and was ahead of the complainant. At place Upper Kelti below doctor residence, the motorcycle of the brother of the complainant was stopped by Toshu, a boy came from the side of the road and hit the brother of the complainant with a stone.

8. The complainant got down from the car and went to his brother. On the spot, there was another car of Narinder from which Narinder and Pradeep came out, they attacked the complainant with rods and stones. In the meantime, the other persons joined the assailants such as Bindu and 7-8 boys, all of them attacked the complainant and his brother with kick and fist blows, rods, dandas and stones and asked why report was lodged with the police against them. They damaged the car of the complainant with rods and dandas and threw the bike below down the road. Pradeep, Toshu, Neenu, Bindu had covered their faces and

ran away from the spot. Ishwar Dass took the injured to IGMC. Mehar Chand informed the others in the house of the complainant. On this case was registered.

9. Jitender Thakur and Mohan Thakur were got medically examined. On the MLC of Mohan Thakur, the doctor opined that injuries No. 1 and 2 were dangerous to life. On the MLC of Jitender Thakur, the doctor had opined "after MLC, X-ray and CT Scan report" which has not yet been received. The injured Mohan Thakur was referred to PGI, Chandigarh. During investigation Sections 307, 440 and 506 IPC were added and Section 427 IPC was deleted. The recoveries were made.

10. On 11.11.2012 Sunil Mehta produced one rod, Anup Thakur alias Anu produced one danda, Pradeep Thakur produced one danda, Narinder Kumar alias Neenu produced one danda, Pushpinder Thakur alias Toshu produced one rod, weapons of offence. The involvement of Charan Singh Thakur in the commission of offence has not come till now during investigation. The petitioners in connivance with each other gave beatings to injured Mohan Thakur and Jitender Thakur with dandas, rods, stones, slaps and fist blows. They damaged the car and motorcycle. They attempted to murder injured Mohan Thakur and Jitender Thakur due to enmity. The investigation is at initial stage, report from SFSL has not yet been received. The submission has been made for rejection of the bail applications.

11. Heard and perused the record. It has been stated in the status report that till now involvement of Charan Singh Thakur has not come in the investigation in the commission of offence. In these circumstances, Cr.MP(M) No. 1069 of 2012 so far Charan Singh Thakur is concerned, has become infructuous.

12. The alias names of Narinder is Neenu and Pushpinder is Toshu. On instructions received, the learned Deputy Advocate General has stated that injured has come to IGMC for further treatment but till now his statement has not been recorded as he was not in a position to make statement. The complainant Jitender Thakur in his statement u/s 154 Cr.P.C. has stated that Toshu, Narinder, Pradeep, Bindu and some others attacked the complainant and his brother. During investigation, Sunil Mehta, Pushpinder Thakur alias Toshu produced one rod each, Anup Thakur alias Anu, Pradeep Thakur and Narinder Thakur alias Neenu produced one danda each.

13. In the MLC of Mohan Thakur, the doctor has indicated seven injuries and has stated that injuries No. 1 and 2 are dangerous to life for which the patient is being referred to PGIMER, Chandigarh. However, final opinion about the nature of injuries will be given after MRI, CT Scan, X-rays or case summary from PGIMER, Chandigarh. The weapon used has been opined blunt. In the MLC of Jitender Thakur, the doctor has indicated seven injuries and against nature of injuries, it has been stated "after MRI, X-ray and CT Scan report", weapon used blunt. In the status report, it has been stated that the reports have not been received.

14. It has been stated that the assailants attacked the complainant party due to previous enmity. The investigation is at an early stage. The allegations are

serious against the assailants, recoveries of weapons of offence have been made from Sunil Mehta, Pushpinder Thakur alias Toshu, Anup Thakur alias Anu, Pradeep Thakur and Narinder Thakur alias Neenu. There is no indication in the status report that any other weapon of offence is to be recovered from any other accused.

15. In view of above, Cr.MP(M) No. 1073 of 2012 is dismissed. Cr.MP(M) No. 1069 of 2012 is partly allowed, the petitioners Inder Pal, Ankush, Naval Kishor and Vijay Thakur are ordered to be released on bail in FIR No. 161 of 2012 dated 5.11.2012 registered at Police Station Sadar, District Shimla under Sections 147, 148, 149, 307, 323, 341, 440 and 506 IPC on their furnishing personal bonds in the sum of ` 50,000/- each with one surety each of the like amount to the satisfaction of the Arresting Officer with the conditions that the petitioners shall continue to report to the concerned Investigating Officer as and when called by the Investigating Officer, they shall not hamper the investigation and tamper with the prosecution evidence in any manner. They shall maintain absolute peace and lawful conduct during the pendency of the case. They shall not leave the country without the permission of learned Sessions Judge, Shimla till report u/s 173 Cr.P.C. is filed and after filing of such report without the permission of the trial Court.

16. Cr.MP(M) No. 1074 of 2012 is allowed, the petitioner Bindu is ordered to be released on bail in FIR No. 161 of 2012 dated 5.11.2012 registered at Police Station Sadar, District Shimla under Sections 147, 148, 149, 307, 323, 341, 440 and 506 IPC on his furnishing personal bond in the sum of ` 50,000/- with one surety of the like amount to the satisfaction of the trial Court with the conditions that the petitioner shall not hamper the investigation and tamper with the prosecution evidence in any manner. He shall join the investigation as and when called. He shall maintain peaceful and lawful conduct during the pendency of the case. He shall not leave the country without the permission of learned Sessions Judge, Shimla till report u/s 173 Cr.P.C. is filed and after filing of such report without the permission of the trial Court.

17. Cr.MP(M) No. 1084 of 2012 is allowed, the petitioner Rohit Thakur alias Sunny is ordered to be released on bail in FIR No. 161 of 2012 dated 5.11.2012 registered at Police Station Sadar, District Shimla under Sections 147, 148, 149, 307, 323, 341, 440 and 506 IPC on his furnishing personal bond in the sum of ` 50,000/- with one surety of the like amount to the satisfaction of the trial Court with the conditions that the petitioner shall not hamper the investigation and tamper with the prosecution evidence in any manner. He shall join the investigation as and when called. He shall maintain peaceful and lawful conduct during the pendency of the case. He shall not leave the country without the permission of learned Sessions Judge, Shimla till report u/s 173 Cr.P.C. is filed and after filing of such report without the permission of the trial Court. The observations made in this judgment are for disposal of bail petitions only and the same shall not be construed as an expression of opinion on the merits of the

case.