

(1950) 06 P&H CK 0017
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 750 of 1949

Hari Singh

APPELLANT

Vs

Balmokand and another

RESPONDENT

Date of Decision : 29-06-1950

Acts Referred:

Penal Code, 1860 (IPC) — Section 394

Citation : AIR 1950 P&H 367

Hon'ble Judges : Kapur, J

Bench : Single Bench

Advocate : H. L. Sarin, for the Appellant; Gurnam Singh and K. S. Thapar for Advocate-General for the State, for the Respondent

Judgement

Kapur, J.—The rule in this case was issued by Soni J. on 26th August 1949. And this simple matter has been delayed for such a long time.

2. According to the complaint, on 19th August 1948, the complainant was going on a bicycle while he was under the influence of drink. It is alleged that he struck against the son of a Sub-Inspector and there was an exchange of foul abuse. The complainant was taken to the Police Station, Sahnewal, where it is alleged that he was mercilessly beaten by respondents 1 and 2.

3. Subsequently a case under S. 394, Penal Code, was started against the complainant and he was convicted and sentenced to one year's rigorous imprisonment on 11th January 1949, but on appeal on 17th February 1949, he was acquitted.

4. He had made a complaint on his release on bail to the learned Magistrate on 1st September 1948, but evidently this complaint was not proceeded with. Whether the complaint had any merits or not, it is unfortunate that the learned Magistrate did not take any action on it, and it appears that although he had sent it for enquiry to the Police no report was sent by the Police to the Magistrate as it was the duty of the Police to do, nor does the Magistrate seem to have taken the

trouble to find why it was so.

5. On 11th January 1949, evidently after the conviction of the complainant in S. 394, Penal Code case the learned Magistrate dismissed the complaint and the learned Sessions Judge has refused to take any action on it by an order dated 6th July 1949. The Courts below have treated the matter in rather a light-hearted manner and have not shown that care which the citizen is entitled to expect in such matters. It must be remembered that the Courts exist for benefit of the citizens to give redress to the aggrieved and punish the guilty irrespective of personalities. It is the duty of the Magistrate to deal carefully and expeditiously with all complaints made to them against anybody and more so against Police officials, because the stability of the State depends on the confidence which the citizens have in the machinery for adjudication of rights whether it is superior Courts or the inferior Judiciary including the magistracy of this country. Citizens should not be given even a chance to labour under the apprehension that against persons in power they can get no redress and that Policemen can get away with their high-handedness without the State, acting through its magistracy, taking any notice of it, and even where a complaint is made with regard to that matter. The learned Sessions Judge has shown a most peculiar attitude with regard to this complaint. It was open to him to say that he was not satisfied that on the facts disclosed any action need be taken, but to say that

it will be to the interest of the parties concerned to take the matter quietly and not further the bitterness that already exists

is, in my judgment, absolutely an erroneous approach by Courts exercising criminal jurisdiction. These sorts of expressions and inaction would make the citizens suspect the Judiciary which will be an evil day for the State itself because it is the confidence which the citizen has in the fairness and the impartiality of the Judicial administration which is the backbone of peace and contentment in any country and is the surest safeguard against lawlessness and anarchy. I cannot accept the reason given by the Courts below for not proceeding with enquiry and I therefore hold that the reasons given by them seem to be wholly erroneous.

6. But coming to the complaint itself it appears to me that there is not much merit in it. The complainant admits that he was drunk, and a drunken man cannot be driving his bicycle with any amount of care or caution. It is also admitted by him that he exchanged foul abuse and there is evidence to show that while he was being beaten in the Thana he was abusive towards the people there. The beating does not appear to be a secret affair, it must have been, administered openly and the petitioner has been able to produce some witnesses with regard to the beating and yet it was not up to 1st September 1949, that he filed any complaint. He could easily have made a complaint earlier, and then the complaint also discloses that the medical certificate which has been produced does not show any injury on the complainant. In these circumstances I am not

prepared to exercise any discretion in favour of the complainant and would not like to quash the orders of the Courts below and to order further enquiry. But I do so only because the complaint discloses very little merit and the matter has come to me on revision about 22 months after the occurrence when memories must have been dulled by passage of time and the evidence now may well be perjured. But to the learned Magistrate complaint was made at a time when memories were fresh though some delay there certainly even then had occurred, which circumstance would have been taken into account in judging the truth of the allegations.

7. The attention of the learned Magistrate as well as of the learned Sessions Judge is drawn to the observations made above.

8. I would, therefore, discharge the rule.