
(2011) 12 SHI CK 0157
In the High Court Of Himachal Pradesh
Case No : Criminal M.P. (M) No. 986 of 2011

Nisha	Vs	APPELLANT
State of H.P.		RESPONDENT

Date of Decision : 06-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 107, 147, 149, 150, 323

Citation : (2011) 12 SHI CK 0157

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Judgement

Kuldip Singh, Judge

1. This judgement shall dispose of Cr.MP(M) Nos. 986, 987, 988, 990 and 991 of 2011. Cr.MP(M) No. 986 of 2011 has been filed by Nisha, Cr.MP(M) No. 987 of 2011 by Radha, Cr.MP(M) No. 988 of 2011 by Jagdish Kaintha, Cr.MP(M) No. 990 of 2011 by Perma Nand Kainthla and Cr.MP(M) No. 991 of 2011 by Deep Singh, u/s 438 Cr.P.C. for releasing them on bail in FIR No. 112 dated 27.11.2011 registered at Police Station, Kumarsain, under sections 452, 323, 325, 147, 149, 504 and 506 IPC. The investigating agency has filed almost identical status report in each case.

2. It has been stated in the petitions that Jagdish Kaintha husband of petitioner Radha made complaint before Police Station, Kumarsain and on that basis FIR No. 111 dated 27.11.2011 has been registered. Thereafter at the instance of Smt. Babli Negi false and baseless FIR No. 112 of 2011 has been registered at Police Station, Kumarsain on 28.11.2011. The FIR No. 112/11 is a counterblast to FIR No. 111 of 2011. It has been stated that on 25.9.2011 petitioner Parma Nand Kainthla made a report at Police Post, Narkanda under police station, Kumarsain against the complainant Babli. Parma Nand Kainthla had stated that Smt. Babli and her husband Ram Lal had been trying to trespass and interfere over his land, but police did nothing despite the complaint dated 25.9.2011 and

rapat dated 30.9.2011.

3. It has been alleged that on 27.11.2011 Smt. Babli and Ram Lal again trespassed over the land of Parma Nand Kainthla. The trespassers were asked why they were cutting bushes on the land of Parma Nand Kainthla. They ran towards Jagdish Kainthla and gave Drat blow, which struck over the ear of Jagdish Kainthla. On this FIR No. 111 was lodged at Police Station, Kumarsain on 27.11.2011. The FIR No. 112 dated 28.11.2011 has been lodged as a counterblast to FIR No. 111 dated 27.11.2011.

4. It has been stated that petitioners are innocent, they have committed no offence. The petitioners have been falsely implicated in the case. The petitioners are ready to join the investigation and furnish bail bonds in accordance with the directions of this Court. The prayer has been made for releasing the petitioners on bail u/s 438 Cr.P.C.

5. The status report has been filed in which it has been stated that Smt. Babli Negi reported at police post at 10.40 p.m. that on 27.11.2011 during day time they were cutting bushes on their own land, the adjoining land is owned by Parma Nand. After finishing the work the complainant and her family went to their house where her nephew Suresh and his wife Reena had also come as guests. In the evening at about 6.00 p.m. Parma Nand, Jagdish, Radha, Deep Ram and his wife with Dandas trespassed in their house and gave beatings to the complainant, her husband and both sons Hans Raj and Tilak Raj, who have suffered injuries. The assailants have also abused the complainant and his family and threatened that they would kill them, on this the case was registered.

6. It has been stated that Babli Negi, Ram Lal, Hans Raj, Tilak Raj were got medically examined and their MLCs were obtained. Ram Lal has sustained grievous injury and therefore, section 325 IPC has been added. The recoveries have been made. The accused have disclosed that on 27.11.2011 Ram Lal and his family quarreled with accused Jagdish and his family and gave them beatings. It has been alleged that in retaliation Ram Lal and his family were given beatings by the accused. It has been stated that there is a dispute over land which is the cause of repeated quarrels between two parties. The complainant party has earlier filed complaint under sections 107, 150 IPC against the accused. It has been alleged that petitioners are influential persons and prayer has been made for rejection of their bail applications.

7. I have heard the Learned Counsel for the parties and have also gone through the police file. It has come on record that earlier Parma Nand Kainthla lodged FIR No. 111 dated 27.11.2011 and thereafter FIR No. 112/11 dated 28.11.2011 has been registered at Police Station, Kumarsain. The investigation in the case is complete. No recovery is to be made from the petitioners. The investigating agency has opposed the bail applications on the ground that petitioners are influential persons and they can terrorise the prosecution witnesses and influence the investigation.

8. The prosecution witnesses are mainly the family members of the complainant party, the complainant has alleged that petitioners trespassed and attacked them with dandas in their house. The investigation in the case is almost complete. In these circumstances, the possibility of influencing the prosecution witnesses and influencing the investigation from the side of the petitioners is almost non-existent. However, still if the petitioners will interfere in the case in any manner, the law will take its own course. There are allegations and counter-allegations from both the sides. The petitioners have made out a case for grant of bail in their favour, u/s 438 Cr.P.C.

9. In view of above, all the petitions being Cr.MP(M) Nos. 986, 987, 988, 990 and 991 of 2011, are allowed and it is directed that in the event of arrest of the petitioners, they shall be released on bail in FIR No. 112 dated 27.11.2011 registered at Police Station, Kumarsain, under sections 452, 323, 325, 147, 149, 504 and 506 IPC, on their furnishing personal bond in the sum of Rs. 20,000/- each with one surety each of the like amount to the satisfaction of arresting officer with the conditions that petitioners shall continue to join the investigation as and when called by the investigating officer and shall not terrorise, overawe any prosecution witness or tamper with the prosecution evidence in any manner.

10. Any observation made hereinabove shall not be construed as an expression of opinion over the merits of the case. The application stands disposed of.