

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP(M) Nos. 1190, 1191, 1192, 1193 & 1194 of 2020

Date of decision: July 31, 2020.

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1. Cr.MP(M) No. 1190 of 2020

Balwant Kumar .....Petitioner.

Versus

State of Himachal Pradesh .....Respondent.

2. Cr.MP(M) No. 1191 of 2020

Nand Lal .....Petitioner.

Versus

State of Himachal Pradesh .....Respondent.

3. Cr.MP(M) No. 1192 of 2020

Vidya Sagar .....Petitioner.

Versus

State of Himachal Pradesh .....Respondent.

4. Cr.MP(M) No. 1193 of 2020

Prince Saini .....Petitioner.

Versus

State of Himachal Pradesh .....Respondent.

5. Cr.MP(M) No. 1194 of 2020

Vinod Kumar .....Petitioner.

Versus

State of Himachal Pradesh .....Respondent.

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*Coram*

The Hon'ble Ms. Justice Jyotsna Rewal Dua, *Judge.*

*Whether approved for reporting?*<sup>1</sup>

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<sup>1</sup> *Whether the reporters of the local papers may be allowed to see the Judgment?*

For the petitioners : Mr. Mandeep Chandel, Advocate.

For the respondent : Mr. Anil Jaswal, Addl. Advocate  
General.

**(through Video Conferencing).**

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**Jyotsna Rewal Dua, Judge (Oral)**

These petitions being interconnected and arising out of the same FIR, are taken up together for disposal.

2. The petitioners have been arraigned as accused in FIR No. 240/2020, dated 14.7.2020, registered under Sections 307, 326, 341, 323, 504, 506, 427 and 34 of Indian Penal Code at Police Station, Balh, District Mandi, H.P. Interim protection was granted to the petitioners vide order dated 8.6.2020 subject to the conditions mentioned therein.

3. As per the status report:-

3(i) One Yog Raj, son of Thaliya Ram recorded his statement under Section 154 Cr.P.C. to the effect that he drives pick-up vehicle No. HP-65-2688. On 13.7.2020, he had brought in his vehicle a cow, sold by one Hoshiar Singh to one Lucky Pahalwan resident of Village Ratti. In lieu of this cow, Hoshiar Singh was provided with one non-lactating dairy cow, which was being carried in this very pick-up driven by him. At around 8:50 P.M., he stopped the vehicle at village Syanh for answering the nature call. At that very moment, the petitioners approached him and demanded removal of wooden planks guarding the back

of the vehicle. The moment said Shri Yog Raj stepped out of the vehicle, he was allegedly given beating by all the petitioners. Shri Tilak Raj and Manish, relations/acquaintances of said Shri Yog Raj, who were allegedly informed about the incident on phone, also reached the spot in their vehicle and tried to pacify the petitioners. However, they were also not spared and were given beatings by the petitioners. Their vehicle No. HP-33C-7978 was also smashed in the process. Hoshiar Singh and Thaliya Ram-father of the complainant also reached the spot, however, they were also allegedly beaten by the petitioners with rod, 'danda' and sickle. It was further alleged that the complainant and his relations/acquaintances managed to escape from the clutches of the petitioners with great difficulty and reached the hospital for their treatment where statement of Yog Raj was recorded under Section 154 Cr.P.C., which led to registration of FIR in question.

3(ii) Pursuant to the interim protection granted by this Court vide order dated 8.6.2020, all the petitioners-accused have joined the investigation and are stated to be cooperating with the investigating agency. As per the status report, petitioners have aided in recovery of danda/steel rod/sickle allegedly used by them on the spot.

3(iii) Status report also mentions that during the investigation, the version of the accused/petitioners is that

complainant Yog Raj was trying to leave the stray cows nearby the house of the accused persons which was objected to by them resulting into a scuffle between them. At the instance of complainant Yog Raj, his acquaintances and relatives also reached the spot. Both sides gave beatings to each other, as a consequence thereof petitioners also suffered injuries in the hands of complainant and his acquaintances/family members.

3(iv) Medical Officer, Civil Hospital, Ratti on 23.7.2020 determined the nature of injury No. 1 suffered by Hoshiar Singh as grievous in nature and endangering to life, whereafter Sections 307 and 326 IPC were incorporated in the FIR.

4. Learned counsel for the petitioners raised the plea of innocence and false implication. He further submitted that all the petitioners have joined the investigation and are actively cooperating with the same. Nothing remains to be recovered from them. He also brought to the notice of the Court that regarding this very incident a cross FIR No. 241/2020 was registered at the instance of the petitioners on 14.7.2020 under Sections 341,323,506,427 and 34 IPC. Learned Additional Advocate General has not disputed that the petitioners have joined the investigation and are cooperating with the same and that a cross FIR at their instance has been registered regarding the same incident. He, however, submitted that the petitioners be put to strict conditions to ensure their continuous cooperation

with the Investigating Agency during investigation and thereafter. He has also submitted that strict conditions be imposed against the petitioners in the event of grant of bail to them so that they do not threaten the complainants and do not influence the prosecution witnesses or temper with the prosecution evidence.

5. It is not disputed that the petitioners have joined the investigation and are co-operating with the Investigating Agency. Which of the petitioners gave what kind of beatings and to whom, with what kind of weapon, inflicting what kind of injury and with what intention are all such questions regarding which evidence is required to be led during trial and to be appreciated at an appropriate stage by the competent Court. It is also not in dispute that the cross FIR No. 241/2020 at the instance of petitioners regarding same incident has been registered against the complainant party under Sections 341, 323, 506, 427 & 34 IPC. Status report does not indicate any previous criminal history of the petitioners. Considering the nature of allegations levelled against the petitioners and noticing that no recovery remains to be effected from the petitioners, who are statedly cooperating with the investigation and the fact that the petitioners have also lodged cross FIR regarding the same incident against the complainants/family members, investigation regarding which is under process and considering the fact that the petitioners are residents of village Syanh, Post Office, Lohara, Tehsil Balh,

District Mandi, H.P. and have their landed property in the said village, their presence therefore can be ensured in the trial, accordingly, the interim protection dated 8.6.2020 is made absolute subject to following conditions:

- (i) The petitioners shall continue to join the investigation of the case as and when called for by the Investigating Officer in accordance with law and shall cooperate with the Investigating Agency.
- (ii) The petitioners shall not temper with the evidence or hamper the investigation in any manner whatsoever:
- (iii) The petitioners shall not contact the complainants, threaten or browbeat him/her or to use any pressure tactics in any manner whatsoever.
- (iv) The petitioners shall not leave India without prior permission of the Court.
- (v) The petitioners shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him from disclosing such facts to the Court or any Police Officer;
- (vi) The petitioners shall inform the Station House Officer of the concerned Police Station about their place of residence during bail and trial. Any change in the same shall also be communicated within two weeks thereafter. Petitioners shall furnish details of their Aadhar Card, Telephone Number, E-mail, PAN Card, Bank Account Number, if any.

In case of violation of any of the terms & conditions of the bail, respondent-State shall be at liberty to move appropriate application for cancellation of the bail. It is made

clear that observations made above are only for the purpose of adjudication of instant bail petition and shall not be construed as an opinion on the merits of the matter.

With the aforesaid observations, the present petitions stand disposed of, so also the pending miscellaneous applications, if any.

The parties shall not insist upon for obtaining certified copy of this order and shall download the same from the website of the High Court. However, the Registry is directed to send copy of this order to learned counsel for the parties through email subject to furnishing email addresses by them, if so required.

Authenticated copy of this judgment duly authenticated by the Secretary be supplied to learned counsel for the parties, if so requested.

(Jyotsna Rewal Dua),  
Judge.

July 31, 2020,  
(vs)