



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM No.18191-M of 1994 (O&M)
Reserved on:20.05.2024
Pronounced on:30.05.2024

Gian Singh and others ... Petitioners
Versus
State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashish Aggarwal, Senior Advocate with
Ms. Aashna Aggarwal, Advocate
for the petitioners.

Ms. Geeta Sharma, DAG, Haryana.

Mr. P.S. Chahal, Advocate for
Mr. G.S. Nagra, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J.

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.72 dated 22.03.1994 registered under Sections 148, 149, 454, 380, 448, 506 IPC registered at Police Station Indri, District Karnal and all subsequent proceedings arising therefrom.
2. In brief, the facts are that FIR (supra) was registered on the basis of statement made by Sheela Devi wife of Bhagat Ram, resident of Village Dabkauli Kalan, Police Station Indri wherein it was that on 13.03.1994, she went Karnal and when she came back in the evening, lock of her house was found broken and Gian Singh son of Babu Ram, Man Singh son of Babu Ram, Krishan son of Babu Ram, Sri Chand son of Krishan, Shish Pal, Ram Pal sons of Prithvi Singh, Surat Singh son of Ram Saran, Dharambir son of Shish Pal, Karambir son of Shish Pal, Mehar Singh son of Ram Saran, Sher Singh son of Ram Saran,



Bhim Singh son of Ram Saran, Gaje Singh son of Hari Ram, Megh Pal son of Hari Ram, Hari Ram son of Partapa, Amar Singh son of Partapa, Partapa son of Mam Raj, Rambir son of Neki Ram, Om Pal son of Maya Ram, Pritu Sarpanch, village Bibipur Jatan armed with his gun, Sadhu Ram son of Atma Ram, Prem son of Atma Ram, Sunder son of Maya Ram, Ombir son of Sadhu Ram and ladies of their family were present at the spot. They were armed with *lathis* and *gandasi*. Dharambiri wife of Gian Singh, Bohati wife of Man Singh, Kamla wife of Krishan, Saroj Devi wife of Gaje Singh, wives of Surat Singh, Sher Singh, Bhim Singh, Gaje Singh, Sadhu Ram and other residents of village Dabkauli Kalan were also standing there. The accused persons threatened her by stating how can you occupy our plot. We have taken possession of the same by breaking open the lock and we would not allow you to reside here, as this plot does not belong to your husband, grandfather or grandmother, rather it belongs to us. Bricks purchased by us are lying there and constructed house on this plot and we will raise further construction. 10 bags of cement, 20 bags of urea fertilizer and utensils etc. were also lying in the plot, which were stolen by accused persons during day time. Balwan Singh son of Shiv Ram caste Jat, Joginder son of Krishan, caste Jat, Dharam Singh son of Bhagirath caste Jat, Rai Singh son of Abala caste Jat, resident of village were also present there and the accused persons abused her in presence of all these persons. Residents of the village intervened on which accused persons, who had taken possession of her house by breaking open the lock and stolen the household articles threatened those residents, who had intervened to leave the spot otherwise they will kill them. Legal action was sought against the accused persons who had stolen her household articles and harassed her. Thereafter, a panchayat was convened for



protecting her rights but no justice was done to her. In the night of 20.03.1994 at about 11 PM, Gian Singh son of Babu Ram and his associates came in front of her house under the influence of liquor and threatened her that we will see you. Legal action was sought against the accused persons.

6. Learned senior counsel for the petitioners *inter alia* contended that petitioners, respondent No.2 and the complainant are related to each other. A family settlement was arrived at between the forefathers of petitioner No.1 and respondent No.2 whereby the disputed plot fell to the share of grandfather of petitioner No.1, however, in the first week of February, 1994, respondent No.2 tried to dispossess petitioner No.1 from the plot in dispute, however, due to timely intervention of respectable persons of the village, respondent No.2 could not succeed in his motive. Since respondent No.2 did not mend his ways, petitioner No.1 filed a civil suit bearing No.199 dated 18.02.1994 seeking permanent injunction against respondent No.2, complainant Sheela Devi and one Balwan Singh to not to interfere in his peaceful possession and in the said suit, interim injunction was granted by the learned trial Court vide order dated 18.02.1994. However, on 22.03.1994, complainant-Sheela Devi mother of respondent No.2 made a false complaint against the petitioner whereupon FIR (supra) was registered against petitioners. It was further contended that the FIR (supra) is nothing but an outcome of the civil suit filed by petitioner No.1 against respondent No.2 and his mother. In fact, respondent No.2 dispossessed petitioner No.1 from the suit property despite interim injunction was granted by the learned Civil Court in favour of petitioner No.1. In the aforesaid civil suit, a local commissioner was appointed by the learned Civil Court, who in his report stated that on spot inspection, petitioner No.1 was found in possession of the



disputed plot. No case is made against the petitioners for commission of offences as stated in the FIR (supra). It is a dispute of civil nature between parties over possession of disputed plot, which was pending before the Civil Court prior registration of the FIR (supra) and therefore, it could not be given colour of criminal case. In support of his contention, reliance was placed upon the judgment passed by this Court in *Dera Siri Chand Darbar Vs. State of Punjab 1998 (1) RCR (Criminal) 472* wherein it has been held that dispute between parties over possession of *dera* and land attached to it, is of civil nature and no ground to register FIR is made out. Further reliance was placed upon the judgment of Hon'ble Supreme Court passed in *G.Sagar Suri Vs. State of U.P.* to contend that a matter which is essentially of civil nature but has been given a cloak of criminal offence is liable to be quashed.

7. Per contra, learned State counsel and the counsel appearing for respondent No.2 contended that petitioners had forcibly taken possession of the house by breaking open the lock and the household articles lying there were stolen by them. There are specific allegations against the petitioners in the FIR (supra) and therefore, the instant petition is liable to be dismissed.

8. Having heard learned counsel for the parties and after perusing the record of the case, this Court finds merit in the arguments raised by the counsel appearing for the petitioners. Admittedly, a civil suit was filed by petitioner No.1 seeking permanent injunction against respondent No.1, complainant and one Balwan Singh for restraining them from interfering into peaceful possession of petitioner No.1 over said property, meaning thereby, petitioner No.1 claimed his possession over the property in dispute. It is also admitted fact that an interim injunction was also granted in his favour. The civil suit was filed on



18.02.1994 and on the same day, defendants in the said suit were restrained from dispossessing petitioner No.1 from the suit property and also alienating the same in any manner. The FIR (supra) was registered on 22.03.1994 whereas the alleged incident had occurred on 13.03.1994. There is no explanation came forth as to what prevented the complainant from registering the FIR for about 9 days. Furthermore, general allegations of breaking open the lock of the house of complainant were levelled against 35 persons. In the opinion of this Court, the instant FIR is a counter-blast to the civil suit filed by petitioner No.1 against respondent No.2 and others including the complainant wherein petitioner No.1 claimed his possession over the suit property and sought permanent injunction against respondent No.2, his mother and one Balwan Singh to not to dispossess him forcibly and the FIR (supra) is merely an afterthought as there is a delay of 9 days in lodging the FIR on 22.03.1994 when the alleged incident had occurred on 13.03.1994. In the case of *Paramjeet Batra v. State of Uttarakhand* (2013) 11 SCC 673, the Hon' ble Supreme Court has held that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. It must be seen whether a dispute which is essentially of a civil nature is given a cloak of criminal offence and in such a situation, if a civil remedy is available, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.

9. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for



wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the inherent power of the High Court under Section 482 Cr.P.C. should be exercised (see *State of Haryana v Bhajan Lal, 1992 Supp (1) SCC 335*). The Hon' ble Supreme Court in the judgment passed in *Sri Gulam Mustafa Vs. The State of Karnataka and another, Criminal Appeal No.1452 of 2023* decided on 10.05.2023 has quashed the FIR filed by the complainant after being not successful in civil suits. Speaking through Justice Ahsanuddin Amanullah observed as under:-

“36. What is evincible from the extant case-law is that this Court has been consistent in interfering in such matters where purely civil disputes, more often than not, relating to land and/or money are given the colour of criminality, only for the purposes of exerting extra-judicial pressure on the party concerned, which, we reiterate, is nothing but abuse of the process of the court. In the present case, there is a huge, and quite frankly, unexplained delay of over 60 years in initiating dispute with regard to the ownership of the land in question, and the criminal case has been lodged only after failure to obtain relief in the civil suits, coupled with denial of relief in the interim therein to the respondent No.2/her family members. It is evident that resort was now being had to criminal proceedings which, in the considered opinion of this Court, is with ulterior motives, for oblique reasons and is a clear case of vengeance.”

10. In view of the aforesaid facts and circumstances, the instant petition is allowed and FIR No.72 dated 22.03.1994 registered under Sections 148, 149,



454, 380, 448, 506 IPC registered at Police Station Indri, District Karnal and all subsequent proceedings arising therefrom are quashed qua petitioners.

(HARPREET SINGH BRAR)
JUDGE

May 30, 2024

Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No