

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CR No.7001 of 2015.

Date of Decision: 19.10.2015.

Nirbhay Singh

....Petitioner.

VERSUS

Jaggar Singh (deceased) through L.Rs. and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Harshit Jain, Advocate for the petitioner.

SNEH PRASHAR, J.

This is a petition under Article 227 of Constitution of India for setting aside the order dated 29.09.2015 passed by learned District Judge, Sangrur, vide which the application dated 24.08.2015 for transfer of Civil Suit titled 'Nirbhay Singh vs. Jaggar Singh and others' from the Court of Smt. Amandeep Kamboj, Civil Judge (Junior Division) to the Court of Shri Amandeep Singh, Sub Divisional Judicial Magistrate, Dhuri was dismissed.

The facts are that petitioner Nirbhay Singh had filed a suit for declaration and permanent injunction which is pending before Civil Judge (Junior Division), Dhuri. He filed an application before learned District Judge, Sangrur for transfer of the said suit to the Court of learned Additional Civil Judge (Senior Division), Dhuri where a criminal complaint

titled 'Nirbhay Singh vs. Sant Singh and others' under Sections 420, 465, 467 and 468 of the Indian Penal Code was pending. His plea was that the subject matter and parties to both the cases were same and, therefore, the said two cases should be disposed of by one and the same Court.

The application was resisted by the respondents. In their reply, they mentioned that the Civil Suit had matured for final disposal and the criminal complaint was still at preliminary stage of hearing. They also submitted that the application had been filed only to delay the disposal of the civil suit.

Learned District Judge finding no ground for transfer of the Civil Suit dismissed the application vide order dated 29.09.2015. The findings of learned District Judge are as under:-

*“No reason has been assigned by the applicant as to why he is seeking trial of the two cases in one and the same Court. As per reports received from the Courts concerned, criminal complaint is pending for recalling of the summoning order dated 09.12.2013, while civil suit was pending for rebuttal evidence and arguments. The application seems to have been made in an effort to delay disposal of the civil suit under reference. Even otherwise, standard of proof as required in civil cases is different from the one required in criminal cases. In **Iqbal Singh vs. Marwah & another versus Meenakshi Marwah & another, 2005(2) Recent Criminal Reports 178**, it was observed by the Hon'ble Supreme Court that standard of proof required in civil and criminal proceedings are entirely different and both the cases have to be decided on the basis of the evidence adduced therein. It has not been explained as to why the applicant is seeking trial of the two cases by one and*

the same Court. As a matter of judicial prudence, the reasonableness of the grounds put forth is to be scanned with studied scrutiny. The transfer of the case can only be ordered when the party has reasonable apprehension that justice would be denied to him or when there is possibility of passing of conflicting judgments in respect of same subject matter. No ground is made out to accept the transfer application and the same is hereby dismissed.”

Learned counsel for the petitioner could demonstrate no illegality or perversity in the findings of learned District Judge. The trial in the civil suit has reached its fag end whereas the criminal complaint is still at the initial stage being pending for recalling of the summoning order dated 09.12.2013. Both, the civil as well as the criminal case, are to be decided independently on the basis of the evidence adduced by the parties in each of them. Evidence in one cannot be read for disposal of the other. Merely because there is some criminal case also pending between the parties to the lis is no reason for transfer of the civil suit from one Court to another.

Accordingly, finding no ground for intervention in the order dated 29.09.2015 of learned District Judge, Sangrur, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

19.10.2015.
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