

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No. M-11333 of 2013

Date of Decision:-5.2.2015

Amrik Singh

...Petitioner

Vs.

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE MEHINDER SINGH SULLAR

Present:- Mr.Rakesh Gupta, Advocate for the petitioner.

Mehinder Singh Sullar, J. (Oral)

Tersely, the facts and material, which need a necessary mention for the limited purpose of deciding the core controversy, involved in the instant petition and emanating from the record, are that initially, petitioner-complainant Amrik Siungh s/o Gurbax Singh (for brevity "the complainant") had instituted the private criminal complaint against Amrinder Singh son of Ranjit Singh and his brothers (respondents-accused), for the commission of offences punishable u/ss 380, 454, 120-B read with section 34 IPC in the trial Court, inter-alia, alleging therein that he was the owner of electric tubewell connection, bearing account No.LF 10/6, installed in their land, situated in village Umedpur, Tehsil and Distt.Patiala. His pass book of the concerned connection got lost/misplaced. As such, a duplicate pass book was issued by the electricity department in his name.

2. Leveling a variety of allegations and narrating the sequence of events, in all, the complainant claimed that respondents-accused have stolen his pass book of electric tubewell connection and produced the same in the civil suit filed by them in the civil Court, claiming themselves to be owner to the extent of ½ share in the indicated electric connection. In the

background of these allegations, the complainant filed the private criminal complaint against the respondents-accused in the trial court in the manner described here-in-above.

3. Sequely, the trial Court dismissed the complaint and discharged the accused, by means of impugned order dated 12.3.2011 (Annexure P1).

4. Aggrieved thereby, the first revision petition (Annexure P3) filed by the complainant was dismissed as well, by way of impugned order dated 6.9.2012 (Annexure P4) by the revisional Court.

5. Likewise, the petitioner-complainant still did not feel satisfied and preferred the present 2nd revision petition to quash the impugned orders of Courts below (which is otherwise legally barred) in the garb of petition u/s 482 Cr.PC. That is how I am seized of the matter.

6. Ex facie, the argument of learned counsel that since there is sufficient evidence on record to prove that the respondents-accused have committed the theft of pass book of complainant, so, the Courts below committed a legal error to discharge the accused, lacks merit.

7. Having heard the learned counsel for the petitioner, having gone through the record with his valuable help and after bestowal of thoughts over the entire matter, to my mind, as there is no merit, therefore, the instant petition deserves to be dismissed, for the reasons mentioned here-in-below.

8. As is evident from the record that having completed all the codal formalities and appreciating the evidence brought on record, the trial court dismissed the complaint and discharged the respondents-accused, vide impugned order (Annexure P1).

9. Not only that, the order of trial Court was upheld by the revisional Court, by virtue of impugned order (Annexure P4), which, in substance, is as under (paras 13 to 16):-

“13. x x x x

It is a specific plea of the complainant/revisionist that the pass book was stolen by the accused/respondents from their house but no date, month or year has been given in the complaint nor any evidence has been brought on record on this aspect. The witnesses examined by the complainant/revisionist are material discrepant to one another. Naranjan Singh (CW1) in his very examination in chief stated that only the owner can tell that who have committed theft of pass book. In cross examination he has stated that he has deposed in the court what was told to him by the complainant/revisionist which means that his statement is of hearsay statement. He also failed to tell date, month or year when pass book was stolen by the accused/respondents. CW2 Charanjit Singh has also admitted that he has not seen the pass book in the possession of accused/respondents. He has admitted that what ever applications were moved by his father it was mentioned in those applications that the pass book has been lost. At the end of his cross examination he has admitted that as the accused/respondent have filed a civil suit against them, the present complaint has been filed by his father just to put pressure upon them.

14. Similarly, as per the statement of Amrik Singh complainant/revisionist when appeared into witness box as CW3 he has admitted that the property has been shown as joint between the parties in the revenue record which has not been partitioned. He has also admitted the filing of the suit by the accused/respondent for declaration regarding ownership of tubewell connection and for permanent injunction restraining him from use of said electric connection. He has also admitted that accused/respondents are not in good terms with him and when they started using the electric connection, he stopped them from using the said electric connection.

15. The statements of the witnesses and the statement of the complainant/revisionist shows that these are material discrepant from one another. There is no sufficient and convincing evidence on file regarding theft of the pass book by accused/revisionist. No illegality has been pointed out by the learned counsel for the complainant/revisionist in the impugned order passed by the learned trial court which would warrant any interference of this court. The findings of the learned lower court are based on correct appreciation, facts, oral as well as documentary evidence which do not call for any interference by this court and are up held.

16. In nutshell, the revision is without any merits and the same is dismissed.

Lower court file be sent back along with the copy of the order and this court file be consigned to the record room.”

10. Meaning thereby, the trial Court and revisional Court have examined the matter in right perspective and have correctly discharged the accused. The learned counsel for petitioner did not point out any material/ground, muchless cogent, so as to warrant any interference in the concurrent findings contained in the impugned orders of the Courts below. Such orders, containing valid reasons, cannot possibly be interfered in exercise of very limited jurisdiction of this Court, in the present 2nd revision petition (which is otherwise legally barred under section 397(3) Cr.PC), in the garb of petition under section 482 Cr.PC, unless and until, the same are illegal, perverse and without jurisdiction. Since no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, so, the impugned orders of Courts below deserve to be and are hereby maintained in the obtaining circumstances of the case.

11. No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the petitioner.

12. In the light of aforesaid reasons, as there is no merit, therefore, the instant petition is hereby dismissed as such with costs.

5.2.2015
AS

(Mehinder Singh Sullar)
Judge