

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

**CRM-M-21034-2012
Decided on : 25.05.2015**

Bant Singh and others ... Petitioners

Versus

State of Punjab and others ... Respondents

CORAM : HON'BLE MS. JUSTICE NAVITA SINGH

Present : Mr. Mohd. Yousaf, Advocate
for the petitioners.

Mr. B.S. Bhullar, AAG, Punjab
for respondent No.1.

Mr. Ravinder Malik, Advocate
for respondents No.2 to 4.

NAVITA SINGH, J. (Oral)

Counsel for the petitioner submits that petitioners No.1 to 3 had purchased the share of the petitioner No.4 who was co-sharer alongwith his brother Davinder Singh. The FIR in question which was under Section 447 was not maintainable, because in a joint land all co-sharers are deemed to be in possession of every inch of the land. In support of this he has placed reliance upon a judgment passed by a Single Bench of this Court in **Gurmeet Singh Vs. Rachhpal Singh 2004 (2) RCR (Criminal) 72**. He further submits that a civil suit was filed by petitioner Kulbir Singh and his brother Amritpal Singh against Baljinder Singh from whom the land was purchased and his brother Davinder Singh, Harinder Kaur alongwith SHO Police Station, Ahmedgrh for issuance of permanent injunction. Also Davinder Singh filed a suit

against petitioners No.1, 3 and 4 alongwith Amritpal Singh, claiming themselves to be in possession of a part of the joint property, seeking permanent injunction.

Firstly, this Court is not bound by the view taken by a Co-ordinate Bench of this Court. Even, if it taken that no offence under Section 447 was made out, because every co-sharer is deemed to be in possession of the entire land, even then it is not understood as to how the suit filed by the petitioner on the basis of any specific possession was maintainable. One co-sharer cannot seek injunction against another for the same reasons that a co-sharer is deemed to be in possession of the entire land.

Prima facie suit filed by the petitioners and the suit filed by the respondents are both not maintainable. In view of the contention of the petitioners that no FIR could be lodged, because every co-sharer is in possession of the every inch of the land, then their claim in the suit filed by them that they are in specific part of the land gets belied. The petitioners, therefore, are blowing hot and cold taking different stand in civil and criminal litigation.

In view of the above, the petition is dismissed.

Nothing given above to be taken as an expression on the merits of the case.

May 25, 2015
Naveen

(NAVITA SINGH)
JUDGE