

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

**Crl. Misc. No. M-28186 of 2011
Date of decision: 11.03.2015**

Kesar Kaur

.....Petitioner

Versus

Gurmail Singh Saini and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vivek K. Thakur, Advocate,
for the petitioner.

Mr. Surinder Sharma, Advocate,
for respondent No.2.

Mr. Vijay Lath, Advocote,
for respondent Nos. 3, 4 and 6.

Ritu Bahri, J.

This petition under Section 482 Cr.P.C., is for quashing of the order dated 19.07.2010 passed by the Judicial Magistrate Ist Class, Anandpur Sahib, whereby accused-respondents have been discharged and order dated 09.07.2011 passed by the Additional Sessions Judge, Ropar, whereby revision against the aforesaid order has been dismissed.

Petitioner-Kesar Kaur wife of Amrit Lal filed a complaint against Gurmail Singh, Naib Tehsildar (Assistant Collector IInd Grade, Tehsil Nangal), Joginder Singh, Field Kanungo, Mukesh Kumar, Halqa Patwari, Sohan Singh, Gurjeet Singh, Hardeep Singh, Ex-Sarpanch, village Brahmpur, Satpal and Sital Dass under Sections 166, 167, 120-B, 464, 465, 467, 468, 471 and 474 IPC, alleging that pursuant to a conspiracy, they all

had disposed of a complaint with regard to the land measuring 11 Kanals 19 Marlas, situated at village Brahmpur, H.B. No.348, Tehsil Anandpur Sahib, District Ropar, which was owned and possessed by the complainant-petitioner. It was alleged that on 01.10.2003, Gurmail Singh, Naib Tehsildar passed an order and amended the relevant Khasra Girdawari entries qua the said land by dishonestly distorting the same, even though the parties were directed to maintain status quo regarding possession over the property vide orders dated 29.07.2003/29.09.2003 passed by the Civil Judge (Junior Division), Anandpur Sahib.

On completion of preliminary evidence, vide order dated 06.04.2005 (Annexure P-5), the accused-respondents were ordered to be summoned to face trial under Sections 166, 167, 120-B, 464 IPC. However, at the time of consideration on framing of charges, the trial Court was of the view that no prima facie case was made out against the accused-respondents, as requisite sanction for prosecution of Gurmail Singh, Naib Tehsildar, as envisaged under Section 197 Cr.P.C., had not been obtained. Accordingly, vide order dated 19.07.2010 (Annexure P-7), passed by the trial Court, the complaint filed by the complainant-petitioner was dismissed and the accused-respondents were discharged. On revision, the said order has been affirmed by the Additional Sessions Judge (Fast Track Court), Ropar vide order dated 09.07.2011 (Annexure P-9). Hence, this petition.

While dismissing the revision, the Additional Sessions Judge, Ropar has observed that Kesar Kaur-complainant had purchased the above mentioned land from Mohan Lal and in the Jamabandis and Khasra Girdawari up to the year 2004, she was shown to be in possession of land. Thereafter, an application was made by Sohan Singh-accused

(respondent No.3) to the Naib Tehsildar, Nangal-respondent (accused No.1) for correction of the Khasra Girdawaris with regard to the said land by stating that he himself was actually in possession of the said land and not Kesar Kaur. He had further stated that the entries in the revenue record erroneously showed Kesar Kaur to be in possession thereof. Kesar Kaur-petitioner filed a civil suit restraining Sohan Singh and Gurjeet Singh from interfering in her (complainant's) possession over the suit land. In that suit, the parties were directed to maintain status quo with regard to possession over the land in dispute. On the other hand, pursuant to the application made by Sohan Singh, notice was issued to the complainant, upon which she participated in the enquiry. Ultimately, vide order dated 01.10.2003, Gurmail Singh, Naib Tehsildar, passed an order, thereby directing to correct the Khasra Girdawari entries by observing that the entries did not reflect true position with regard to possession over the land. Feeling aggrieved, the complainant filed a complaint alleging that all the accused have conspired with each other and Khasra Girdawari entries have been dishonestly changed so as to enable accused-respondent No.1 to pass the aforesaid order. While dismissing the revision, it was further held that Naib Tehsildar was the competent authority duly empowered to correct any erroneous entry in the revenue record. Gurmail Singh, Naib Tehsildar, while passing the order of correcting the Khasra Girdawari on 01.10.2003, was acting or purporting to act in discharge his official duty. Furthermore, no appeal was filed by the complainant against the order dated 01.10.2003 before the competent authority. Therefore, the said order passed by the Naib Tehsildar was held to be lawful. The status quo order passed by the civil Court did not restrain Sohan Singh from continuing with the proceedings of correction of Khasra

Girdawari. No evidence was led by the complainant-petitioner to show, as to how all the accused-respondents have conspired with each other in order to forge any entry of Khasra Girdawari. Accordingly, the order passed by the Judicial Magistrate Ist Class, Anandpur Sahib was upheld in revision by the Additional Sessions Judge, Ropar.

Learned counsel for the respondent has placed on record photocopy of the judgment dated 21.08.2013 passed by the District Judge, Rupnagar, whereby appeal filed by Kesar Kaur (petitioner herein) against the judgment and decree dated 29.08.2011 passed by the Additional Civil Judge (Senior Division), Anandpur Sahib, has been dismissed.

The petitioner filed a suit for permanent injunction restraining defendants-Sohan Singh and Gurjeet Singh from illegally and forcibly interfering in her peaceful possession over the land measuring 11 Kanals 19 Marlas comprised in Khewat No.434, Khatauni No.515, Khasra No. 44R/13/2/1 (5-11), 14/2 (6-8), as depicted in the Jamabandi for the years 1998-99, situated in village Brahmpur, HB No.348, Tehsil Anandpur Sahib, District Ropar. The District Judge, Ropar, while dismissing the appeal has observed that even though, Kesar Kaur had purchased the suit property from Madan Lal vide sale deed, Ex.P-1, and mutation No.3298 was sanctioned in her favour, but she had failed to establish her cultivating possession over the property in dispute. Therefore, her suit for permanent injunction had been rightly dismissed by the trial Court.

Since the petitioner has not been found in cultivating possession over the land in dispute and the order dated 01.10.2003 whereby Khasra Girdawari entries in the revenue record were changed, has not been challenged by the petitioner till date, the impugned order dated 19.07.2010

passed by the trial Court, discharging the accused-respondents, does not require any interference.

Resultantly, the present petition is dismissed.

11.03.2015
ajp

(RITU BAHRI)
JUDGE