

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

CRM No.M-31751 of 2012

Rajwant Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(2)

CRM No.M-7401 of 2014

Rajwant Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

Date of Decision: September 21, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.D.S.Pheruman, Advocate
for the petitioners.

Mr.B.S.Bhullar, Deputy Advocate General, Punjab
for the respondent-State.

Mr.Kunal Dawar, Advocate
for respondent No.2 (in CRM No.M-31751 of 2012) and
for respondents No.2 and 3 (in CRM No.M-7401 of 2014).

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together
being arisen from same FIR.

Petitioners Rajwant Singh, Sarabjit Singh and Saranjit
Singh through Rajwant Singh have filed CRM No.M-31751 of 2012

under Section 482 Cr.P.C. for quashing of FIR No.233 dated 09.09.2009 under Sections 447, 379, 511, 506, 34, 420 and 120-B IPC, registered at Police Station City Rajpura, District Patiala.

Petitioners Rajwant Singh and Sarabjit Singh have filed CRM No.M-7401 of 2014 under Section 482 Cr.P.C. for quashing of order framing the charge and the charge-sheet dated 30.01.2014 passed by learned JMJC, Rajpura in above-said FIR.

Notice of motion was issued and learned State counsel as well as learned counsel for private respondents appeared and contested both the petitions.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that in the present case, FIR has been registered on the statement of Gurmeet Singh, who mainly stated that he along with Jarnail Singh purchased joint plot out of khasra nos.479, 480, 481 and 482 and area of said plot is 300 sq. yards. They made the boundary wall on the said plot for the last about 18-19 years back and also installed an, iron gate therein. They used to park their tractor, trolley, vehicles etc. and they are in possession thereof for the last more than 20 years. The copy of the jamabandi was also produced on the record. The dimensions of the plot were also given. On the eastern and southern site of their plot, there is plot of Rajwant Singh. There is 20 ft. wide road on its northern side and on the western side, there is showroom of Karam Singh.

On 07.09.2009, he and his elder brother Jarnail Singh went to their plots to see the same where Sarabjit Singh, Sharanjit Singh and Rajwant Singh were removing the foundations of their plot with JCB machine. They were also removing bricks by committing a theft and placing at their own place. They with the intention to take possession over plot, removed the foundation. It is further stated that when complainant side protested, all the three persons started abusing by saying that the plot in question belongs to them and they have purchased the same from Balwinder Singh. Thereafter, the complainant and Jarnail Singh went to Balwinder Singh and narrated all the facts. Balwinder Singh came to the spot and he has shown that plot which he had sold to Rajwant Singh etc. which is at a distance of about 20-30 yards away from their plot.

At the time of arguments, learned counsel for the petitioner argued that khasra numbers as given in the jamabandi and in the FIR are different and no charge is made out and rather, no offence is made out against the present petitioners.

On the other hand, learned State counsel argued that in no way, it can be held that no offence is made out from the perusal of the FIR. It is further argued that at the time of framing of charge, only prima facie case is to be seen.

After hearing learned counsel for the petitioners as well as learned State counsel, I find that it is the case of the complainant that they had constructed the boundary wall on the plot and the same was in their possession for the last 20 years and they used the same for

parking their vehicles like tractor trolleys. It is also the case of the complainant that accused by bringing JCB Machine demolished the foundation etc. and took away the bricks.

From the perusal of the FIR, in no way, it can be held that no offence is made out regarding theft and trespass. It is the finding of fact which is to be given by the trial Court on the basis of the evidence whether the occurrence took place as stated by the complainant or it is a false version. Again, it is finding of fact which is to be given by the trial Court that whether the boundary wall was constructed by the complainant and it was demolished by the accused and bricks were taken away or not. At this stage, in no way, it can be held that no offence is made out from the perusal of the FIR.

Furthermore, I find that, at the time of framing of the charge, the Court is only to see whether prima facie case is made out or not. Even strong suspicion is sufficient for framing the charge. The trial Court has already framed the charge against the accused and has taken the cognizance. There is nothing on the record to show that prima facie case is not made out. There is also nothing on the record to show that filing of the FIR and the subsequent proceedings are abuse of process of the law.

Therefore, finding no merit in both the petitions, the same are dismissed.

September 21, 2015
Vgulati

(INDERJIT SINGH)
JUDGE