

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

**CRM-M No.38649 of 2014
Date of Decision:27.08.2015**

Lal Singh and Another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether reporters of local newspaper may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the digest?

Present : Mr. Sat Narain Yadav, Advocate
for petitioners.

Mr. Munish Shrama, AAG, Haryana.

Mr. Ram Pal Verma, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

Before adverting on to the case of the two sides and their respective merits, it is essential to have glimps of the background which led to this imbroglio. Admittedly, petitioners in this petition under Section 482 Cr.P.C. who have sought quashment of the complaint (Annexure P3), summoning orders (Annexure P4) and consequential proceedings, are father and son respectively and are closely related to complainant/respondent No.2-Joginder, who happens to be the son of brother of petitioner-Lal Singh namely Kamal Singh son of Daya Ram

and it is the case of the petitioners that they are co-sharers in land measuring 9 Kanals 7 marlas to the extent of $\frac{1}{2}$ share each as the same was earlier owned by their forefather-Daya Ram son of Bhodu who died on 18th October, 1989. It is the case of the parties that an electric tubewell under Electricity Connection Account No.G.K.5/11 in the name of their forefather-Daya Ram is installed in Killa No.70/20 which the petitioners claim has come to their share and is controverted by the complainant side.

A Civil Suit No.602 of 12th November, 2011 was filed between the parties in which on interim application said orders (Annexure P1) were passed and on appeal by the complainant the same was dismissed on 15th December, 2012 by the First Appellate Court through orders (Annexure P2). It is during the course of events, the present criminal complaint was filed by the complainant in which the petitiones have been summoned under Section 379, 420, 427, 430, 447, 468, 471 & 506 of the IPC through order (Annexure P4) and which has brought the parties before this Court under the provisions of Section 482 Cr.P.C.

Upon hearing, Mr. Sat Narain Yadav, Advocate for petitioners, Mr. Munish Shrama, AAG, Haryana for the State and Mr. Ram Pal Verma, Advocate for respondent No.2 and perusal of the records, it is the stand of the two sides before this Court and is so in the order dated 16th November, 2012 before the learned Additional Civil Judge (Sr. Division), Jhajjar that the accused and the complainant side are co-sharers of land in

question to the extent of $\frac{1}{2}$ share. Since, the Civil Court is seized of the matter and it is yet to be adjudicated finally as to which of the party is in legal possession/ownership of Killa No.70/20 and even the partition has to be deliberated and, thus, it would be highly inappropriate at this juncture to hold in whose legitimate possession and tutelage the land falls. To the very query of the Court, learned counsel for the respondent could not answer if in terms of Section 55 of the Indian Electricity Act, 2003, the meter, the connection and other appliances so installed to facilitate supply of electricity by the licensee/Board is property of the Board and it is the sole prerogative of the licensee/supplier to transfer this connection within the framework of its Rules. Since, it is the case of the petitioners that the tubewell connection stood transferred in their names legitimately and thus not much solace come to the aid of the complainant.

The mere allegations of the counsel for the complainant that false, forged and fabricated affidavit and other documents have been filed by the accused but to the very query of the Court nothing concrete by way of evidence could be brought to the notice of this Court. Though, this Court needs to be slow in interfering in such judicial process under the provisions of Section 482 Cr.P.C. in the light of the law laid down in "***State of Haryana and others Vs.Ch. Bhajan Lal and others, 1992 AIR 604***" and the prima facie allegations contained in the complaint are that the accused has trespassed into the common land and fixed a gutka in the pipe to disrupt the supply of water to the fields and there is a written

compromise as per the own admission of the complainant regarding all these disputes. Evidently, there is no evidence to show commission of theft as defined in Section 378 Cr.P.C., cheating, mischief or of any nature including injury to works of irrigation much less of criminal trespass forgery and criminal intimidation. Rather, what comes to be reflected from all this is that a civil injury is being given a tint of criminal offence for obvious motivated object.

Apparently, the allegations in the complaint do not disclose or justify any of these offences and even if the evidence in terms of section 200 Cr.P.C. are taken at their face value and accepted in entirety taking these uncontroverted allegations do not disclose commission of any offence and rather are misuse of the process of the Court and in view of these extraordinary circumstances whereby the Courts have been put to this evil design to hold and sustain revenge and vengeance impells this Court to show indulgence into the matter.

In the totality of what has been detailed and discussed above being a pure misuse of the process, the complaint (Annexure P3), summoning orders (Annexure P4) and consequential proceedings arising out of it are hereby quashed by way of acceptance of this petition.

(FATEH DEEP SINGH)
JUDGE

August 27, 2015

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