

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-7485 of 2013 (O&M)

Date of decision : July 10, 2015

Sukhdev Singh

... Petitioner

vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. B.D. Sharma, Advocate
for the petitioner.

Mr. Yogesh Gupta, AAG, Punjab.

None for respondent No.2.

Surinder Gupta, J

The petitioner has filed this petition under Section 482 Code of Criminal Procedure (for short, 'Cr.P.C.') seeking quashing of the FIR No.69 dated 16.4.2008 (Annexure P-1), registered for offence punishable under Sections 454, 380, 506, 427, 148, 149 IPC at Police Station Kartarpur, District Jalandhar.

As per the prosecution story, the petitioner along with co-accused Gurdeep Singh, Satnam Singh, Amrik Singh, Sukhdev Singh and Harjinder Singh opened the cash boxes of *Dera* and taken away the amount lying therein and ₹50,000/- lying in the almirah along with other important documents. After investigation challan was presented and charge has been framed.

Learned counsel for petitioner submits that the co-accused Gurdeep Singh, Amrik Singh and Sukhchain Singh, against whom the challan was filed, had filed petition bearing No.26507 of 2009, which was decided on 29.1.2013 and the FIR was quashed with the observation that the complainant had failed to establish the occurrence in the civil proceedings between the parties and case of the petitioner is also similar.

The allegations in the FIR are general against the petitioner and the other co-accused. While disposing of CRM-M-26507 of 2009, it was observed as follows :-

“Thus, in the civil proceedings, complainant had admitted that the petitioners and their co-accused were in possession of the Dera. Complainant had failed to prove the alleged incident which had taken place on 12.4.2007. The complainant had rather conceded that there was personal enmity between him and the petitioners and their co-accused. He also conceded that the occurrence against the petitioners, was wrong and they had remained in possession of the Dera. Thereafter, the application moved by the complainant under Order 39 Rule 2-A CPC, was dismissed vide order dated 10.2.2010 (Annexure P-9). Admittedly, the said order has gained finality. Since the complainant had failed to establish the occurrence in the civil proceedings, continuation of criminal proceedings against the petitioners would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. FIR No. 69 dated 16.4.2008, under Section 454, 380, 506, 427, 148, 149 IPC, registered at Police Station Kartarpur, District Jalandhar and all the consequential proceedings, arising therefrom, are quashed.”

As no specific or separate allegations have been levelled against the petitioner and his case being similar to the other co-accused, this petition is allowed and the impugned FIR (Annexure P-1) along with all consequential proceedings arising therefrom is quashed.

(Surinder Gupta)
Judge

July 10, 2015
deepak