

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-6981 of 2015

Date of Decision: September 29, 2015

Poonam Dhawan and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Bains, Advocate
for the petitioners.

Ms.Priyanka Sadar, Asstt.Advocate General, Punjab
for the respondent-State.

Mr.J.S.Bedi, Senior Advocate with
Mr.Sunil Sihar, Advocate and
Ms.G.K.Mann, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of FIR No.83 dated 14.05.2014 under Sections 452, 323, 506 and 34 IPC registered at Police Station Sadar Patiala on the ground that no offence whatsoever is made out under Section 452 IPC as the petitioner had gone to the house of their mother and mother-in-law and the other offences are non-cognizable.

Notice of motion was issued and learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

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 FIR in the present case has been got registered by Dr.Simrat Randhawa, widow of late Sh.Rajvinder Singh, in which she stated that she was married with Rajvinder Singh on 27.11.1997 and out of the wedlock, three children were born. Her father-in-law Sikander Singh died in the year 2000. After the death of her father-in-law, complainant along with her husband left the job in America and started residing in Nasirpur Farm and they got done all the work of Farm. It is further in her statement that on 28.12.2011 her husband died and from 2009, she is taking care of the land in Nasirpur Farm. But since 2013, Poonam Dhawan and Salina Singh, who were legally adopted by Harmahinder Singh and Saranjit Singh respectively, in connivance with their respective husbands Yogeshwar Krishan Dhawan and Manjinder Pal Singh @ MP, are trying to take forcible possession of land possessed by her. However, the entire land is in her possession. On 11.04.2014 at about 2.00 P.M., when the complainant was talking to her daughter outside the house, then Yogeshwar Dhawan and his wife Poonam Dhawan came in their car along with a Sikh person on motorcycle and started talking about property. She requested them to settle the matters in the presence of relatives. On that Yogeshwar Dhawan and Poonam Dhawan got angry and started using bad words. It is also in the FIR that Yogeshwar and Poonam forcibly entered in complainant's room and uttered filthy and bad words in English and abused her. They

pushed her behind and threatened to kill her.

In the reply, respondent No.2 stated that petitioner No.1 was adopted out of the family in the year 1972 and this fact has not been mentioned anywhere in the petition. The adoption deed is placed on the record. In the reply, private respondent again deposed the same facts. Respondent-State stated in the reply that on completion of investigation, challan against the accused was presented in the Court on 16.10.2014. Charges were framed on 08.04.2015 and now the case is fixed for 22.05.2015 for evidence of the prosecution. It is further stated that since the matter is subjudice and under consideration of learned Court, therefore, the petition is liable to be dismissed.

At the time of arguments, learned counsel for the petitioner argued that petitioner Poonam Dhawan is the daughter of Smt.Surinder Kaur and Yogeshwar Krishan Dhawan is husband of Poonam Dhawan. If they had went to the house of Suinder Kaur, then in no way, offence under Section 452 IPC is made out. He further argued that there is delay in recording the FIR. As regarding the offence under Section 323 IPC, only push has been alleged. He next argued that no offence is made out and filing of the present FIR is nothing but abuse of process of the law.

On the other hand, learned State counsel as well as learned counsel for respondent No.2 argued that charges have already been framed and even complainant was examined in this case and then application under Section 319 Cr.P.C. has been filed,

which is still pending for consideration. Learned counsel for respondent No.2 further argued that so many incidents took place between the parties and accused are putting pressure upon the complainant, who is a lady, to take possession of the house and the agricultural land.

After hearing learned counsel for the parties and after going through the record, I find that after registration of the FIR by private respondent No.2, investigation was conducted and on completion of investigation, challan has already been presented in the Court. There is allegation in the FIR that the present petitioners along with another person entered into the room possessed by respondent No.2-complainant and they abused her and gave push to her.

In view of the averments at this stage, in no way, it can be held that no offence is made out from the perusal of the FIR. Otherwise also, finding prima facie case, the trial Court has already framed the charges and no revision has been filed against the charge-sheet. Even the complainant has been examined after framing of the charge. Then application under Section 319 Cr.P.C. has been filed to summon the remaining accused.

Learned trial Court has already taken the cognizance and the trial is pending before learned trial Court. The parties are on dispute regarding findings of fact which are to be given by the trial Court on the basis of evidence. From the record, at this state, in no way, it can be held that no offence is made out or the allegations in

the FIR are false or the registration of the FIR is abuse of process of the law.

Keeping in view the facts and circumstances of the case and without expressing any opinion on the merits of the case, I do not find any ground to quash the FIR.

Therefore, finding no merit in the present petition, the same is dismissed.

September 29, 2015
Vgulati

(INDERJIT SINGH)
JUDGE