

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRR No.3239 of 2015 (O&M)****Date of Decision: September 01, 2015**

Ram Saran

...Petitioner

**VERSUS**

Zile Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.H.P.S.Ishar, Advocate  
for the petitioner.

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**INDERJIT SINGH, J.**

The present revision has been filed by the petitioner against the order dated 23.07.2015 passed by learned Addl. Sessions Judge, Panchkula, vide which the revision petition filed by Zile Singh ASI and Sushil Kumar Gupta, Addl. SHO, has been accepted and the summoning order dated 22.01.2014 passed by learned Sub Divisional Judicial Magistrate, Kalka summoning accused Gurcharan Singh Negi and Vijay under Sections 323, 506 and 120-B IPC and accused Zile Singh and Sushil Kumar Gupta under Section 219 read with Section 120-B IPC, was set aside.

The brief facts of the case are that complainant Ram Saran filed a complaint against Gurcharan Singh Negi, Vijay, Zile Singh and Sushil Kumar Gupta under Sections 218, 219, 220, 323, 506 and 120-B IPC. It is stated in the complaint that complainant is

owner in possession of land comprised in khasra No.895(2-9) situated at village Nanakpur. On 23.08.2013, Gurcharan Singh Negi and Vijay came to the suit land and tried to raise construction. Accused No.3 namely ASI Zile Singh was also providing his assistance and supporting accused No.1 and 2 i.e. Gurcharan Singh Negi and Vijay. Accused No.1 and 2 created a false story and accused No.3 started the proceedings against the complainant under Section 107/151 Cr.P.C. Not only this, accused No.3 has got registered a false FIR against the complainant and his son.

It is further stated that complainant filed a civil suit for permanent injunction against Gurcharan Singh Negi and Vijay. The Court passed interim order and directed defendants No.1 and 2 (accused No.1 and 2) to maintain the status quo regarding the construction and possession over the suit property. On 20.12.2013, accused persons came to khasra No.895 and started raising the construction. The complainant immediately reached to accused No.3 and asked to provide help for stopping the construction but accused ASI Zile Singh threatened the complainant and denied to provide any help. Then complainant made a complaint to SHO, who deputed and asked accused No.4 ASI Sushil Kumar Gupta to inquire the matter. Accused No.4 also got involved in the conspiracy. DDR No.15 dated 20.12.2013 was entered at police post Madawala and accused No.3 and 4 came to the conclusion as shown in DDR No.15 Ex.P5 that the construction was being raised by accused No.1 and 2 in khasra No.897 and not in khasra No.895. It is also the allegation that said

police officials without getting demarcated the property by the Halqa Kanungo in compliance of order dated 16.09.2013, recorded the findings.

After hearing learned counsel for the petitioner and after going through the record, I find that accused No.3 and 4 have performed their duty by recording the DDR or by making their report in the record. Whatever they have done, they have done in discharge of their official duties. No cogent evidence has been led to show their connivance with the private persons. There is no allegation that any of the accused caused any injury to the complainant. There is also nothing on the record to show any ground to summon the accused under Sections 120-B IPC also. Therefore, the order dated 23.07.2015 passed by learned Addl. Sessions Judge, Panchkula, setting aside the summoning order is correct and as per law. Similarly, as regarding private respondents, already civil suit is pending and injunction has been granted. The main allegation in the complaint is that accused has violated the injunction order passed by the civil Court. The remedy under Order 39 rule 2A CPC is available to the complainant to approach civil Court for violation of its order and to prove that any construction was raised in the disputed property in violation of the injunction order.

There are no sufficient grounds to summon the accused in the complaint for any offence. The argument of learned counsel for the petitioner that summoning order has already been set aside and Gurcharan Singh Negi and Vijay, though they have not filed the

revision, have also been acquitted. In the revision petition, the Sessions Court can examine the record of the lower Court and can pass the suo motu order. No illegality has been committed by the learned Addl. Sessions Judge, Panchkula while passing impugned order.

In view of the above discussion, I find that the impugned order dated 23.07.2015 passed by learned Addl. Sessions Judge, Panchkula, is correct, as per evidence, law and does not require any interference from this Court.

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

**September 01, 2015**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**