

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.465 of 2015 (O&M)
Date of decision: February 13, 2015

Capt. Randhir Singh Dhaliwal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.G.S.Brar, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 401 Cr.P.C. against State of Punjab and other respondents challenging the judgment dated 17.11.2014 passed by learned Addl. Sessions Judge, Bathinda, vide which the order dated 07.04.2014 passed by the trial Court has been set aside.

I have heard learned counsel for the petitioner and have gone through the record, especially the impugned judgment.

As per the record, learned JMIC, Phul vide order dated 07.04.2014 summoned Harmander Singh, Darshan Singh and Jeet Singh to face trial along with other accused on the application under Section 319 Cr.P.C. A revision was filed by above-mentioned summoned persons before learned Addl. Sessions Judge, Bathinda and vide impugned judgment dated 17.11.2014, summoning order

was set aside, application under Section 319 Cr.P.C. was dismissed and revision was allowed.

From the perusal of the record, I find that FIR in the present case has been registered on the statement of Randhir Singh Dhaliwal on the allegation that he is residing at 88 Kamla Nehru Colony, Bathinda. His ancestral house and land is situated at village Salabatpura. He further stated that his house situated at lane where Gurudwara is situated, in khewat No.100, street No.189, khasra Nos.933 and 936, which is under his possession since 50 years from the time of family partition. An iron gate is fixed at the house, which consists two rooms, courtyard and bathroom etc. He further stated that on that day, he along with Jagnandan Singh went to his house where he saw that the lock of the main gate was broken and common wall abutting to the house of Sukhdev Singh was also demolished and electric cables were also damaged. It is also in the FIR that complainant has belief that his brother Sukhdev Singh, Lakhvir Singh, Lakhwinder Singh and 4-5 unknown persons by breaking the lock of main gate of his house and by entering into the house, damaged wall and tried to take illegal possession of the house and caused loss to the complainant's house by damaging the electric cables.

The perusal of the FIR shows that the complainant has only suspicion and he is not an eye witness to the occurrence. Before the trial Court, only PW-1 complainant has been examined and thereafter, application under Section 319 Cr.P.C. has been filed. No other witness has been examined. So, as per the FIR, the

complainant was not present at the time of occurrence. He had only suspicion against Sukhdev Singh, Lakhbir Singh and Lakhwinder Singh and other persons. Respondents No.2 to 4 are not named in the FIR. Even, no suspicion has been shown against them. So, even if PW-1 complainant has stated, while appearing in the Court, the names of these respondents No.2 to 4, it does not appear that they are also involved in the commission of offence on the basis of the evidence produced before the trial Court at this stage.

In view the above discussion, I find that the impugned judgment dated 17.11.2014 passed by learned Addl. Sessions Judge, Bathinda is correct, as per law and the same is upheld.

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

February 13, 2015
Vgulati

(INDERJIT SINGH)
JUDGE