

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

CRM No.M-1060 of 2013

Date of decision: 27.04.2016

Joginder Singh and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. D.S. Kahlon, Advocate,
for the petitioners.

Mr. P.S. Paul, DAG, Punjab,
for respondent No.1.

Mr. R.D. Sharma, Advocate,
for respondent No.2.

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

KULDIP SINGH, J.

The petitioners are seeking the quashing of the FIR No.52 dated 12.06.2011 under Section 447, 427, 511, 506, 148 and 149 IPC registered at Police Station Kanwa, District Gurdaspur now District Pathankot along with all consequential proceedings.

The perusal of the FIR shows that complainant Lakhbir Singh is in possession of the land in dispute. The said land was earlier in the name of Mohinder Pal. He sold the said land to Darshana Devi, who further sold to Jasbir Kaur mother of the petitioner Nos.1 and 2. The allegations in this case are that on 16.06.2010 all the accused came with datar and tractor messi and ploughed the land and abused him and then tried to take forceful

possession of the land in dispute i.e. Khasra No.23/8 where he had sown paddy crop.

I have heard learned counsel for the parties and gone through the records.

Learned counsel for the petitioner has referred to a copy of the judgment dated 29.04.2014 (Annexure P-11), which shows that on 30.06.2010 on the basis of some allegation of trespass, an FIR No.102 dated 30.06.2010 under Sections 323/324/326/427/34 IPC was registered at Police Station Sadar, Pathankot. It further comes out that complainant Lakhbir Singh filed a Civil Suit on 12.01.2011 i.e. before the criminal complaint, claiming that he is in possession of the suit property and that the defendant-Jasbir Kaur be restrained permanently from interfering in any manner in peaceful cultivating possession of the suit property. The plaintiff failed to prove his exclusive possession over the suit land. The appeal filed by the Lakhbir Singh-complainant was dismissed on 06.08.2015 by District Judge, Pathankot. In the judgment, there is a mentioning that the plaintiff remained unsuccessful in getting correction of khasra girdawari in his favour. All the fact shows that the Lakhbir Singh-complainant failed to prove his possession and ownership over the suit land

Admittedly, Jasbir Kaur and petitioners are stated to be related to each other. It being so, once it has been held by the Civil Court that complainant Lakhbir Singh is not in possession of land in dispute, the question of ploughing the standing crop, does not arise. Earlier also on the similar allegation the present petitioner was tried and acquitted. A reference to this fact has been made in the earlier FIR itself. It being so, I am of the view that the present FIR is a misuse of process of law of this Court.

Therefore, the FIR No.52 dated 12.06.2011 under Section 447, 427, 511, 506, 148 and 149 IPC registered at Police Station Kanwa, District Gurdaspur now District Pathankot along with all the consequential proceedings stands quashed.

27.04.2016

Bhumika

**(KULDIP SINGH)
JUDGE**