

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

CRM M-13650 of 2014

Date of decision : 16.03.2016

Balamjeet Singh

....Petitioner

V/s

State of Punjab & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Paramdeep Singh, Advocate for the petitioner.

Mr. Ankur Jain, AAG Punjab.

Mr. ADS Sukhija, Advocate for respondent no. 3.

RAJAN GUPTA J.

Petitioner seeks quashing of FIR registered against him on the ground that no case is made out. From the perusal of FIR, no offence is made out. There is civil litigation pending between the parties. Besides, FIR is only misuse of process of law. Even partition proceedings were initiated. Thus, FIR deserves to be quashed. He has relied upon judgments reported as *Sanjeet Kumar vs. State of Bihar & anr. 2009 (12) SCC, 136* and *Gurnam Singh & ors. vs. State of Haryana 2005(1) RCR (Criminal) 37*.

Prayer has been opposed by learned State counsel. He has referred to reply filed by way of affidavit of Harinder Singh, Deputy Superintendent of Police, Sub Division Khamano, District Fatehgarh Sahib.

I have heard learned counsel for the parties.

FIR was registered on the complaint of Sardool Singh (respondent no. 2 herein). It was alleged that when respondents

no. 2 to 4 were away to USA, petitioner and his father Joga Singh took possession of their house and their land which had not been partitioned as yet. They had also threatened the complainant that in case he would visit the village, he would be taught a lesson. Initially inquiry was entrusted to an Officer of the level of DSP (NRI) by Inspector General of Police, Punjab. It was found that accused had actually taken possession of the land and house in question. Resultantly, FIR was registered. In view of factual issues of joint ownership, possession etc. involved in the matter, no case for quashing of FIR in inherent jurisdiction of this court is made out. As regards judgment in Sanjeet Kumar's case (supra), there can be no dispute about the proposition laid therein. However, in the facts and circumstances of the case, it is not possible to arrive at a conclusion that no cognizable offence is made out in the instant case. Said judgment, therefore, cannot help the case of the petitioner. Judgment in *Gurnam Singh's* case (supra) is under provision of the Indian Forest Act. The Forest department was not able to prove its ownership over the land in question. It was, thus, held that high court was competent to interfere and quash the proceedings in exercise of its inherent power. Facts of the instant case are, however, totally different. Complainant who are NRI's alleged that petitioner took possession of their property while they were not in the country. Thus, there is no merit in the petition. Dismissed.

March 16, 2016

Ajay

(RAJAN GUPTA)
JUDGE