

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

CRM No.M-18690 of 2013 (O&M)

Date of Decision: July 26, 2016

Rambir and others

...Petitioners

VERSUS

Sukhbir Singh @ Raghbir and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Daldeep Singh, Advocate
for the petitioners.

Mr.Amit Chaudhary, Advocate
for respondent No.1.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioners Rambir, Vijay Pal Bhati, Mahesh and Jagbir have filed this petition under Section 482 Cr.P.C. against respondents Sukhwinder Singh @ Raghbir and State of Haryana for quashing of criminal complaint No.RBT-94 of 09.08.2008 under Sections 420, 468, 471 and 34 IPC, summoning order dated 30.05.2012 as well as order dated 06.05.2013 passed by learned Addl. Sessions Judge, Faridabad and all subsequent proceedings arising therefrom.

Notice of motion was issued and learned counsel for respondent No.1 as well as learned State counsel appeared and contested the petition.

Learned counsel for the petitioners mainly argued that after

going through the facts, the dispute in present complaint appears to be of civil nature and no criminal offence is made out. He further argued that complainant himself in the complaint admitted his signatures on the document/agreement, which is also having the photographs on it and complainant side themselves admitted that they have gone along with the witnesses and put their signatures. Learned counsel for the petitioners also argued that the dispute is regarding the agreement to sell and the civil suit filed by the accused for specific performance on the basis of same agreement to sell has been decreed by the Civil Court, though appeal is pending before learned District Judge.

On the other hand, learned counsel for respondent No.1 argued that it is the law that civil proceedings as well as criminal proceedings can be filed at the same time. He next argued that the complainant and other persons have been cheated by the accused as they instead of getting the document for discharge of the land on lease, got executed this agreement to sell. He further argued that the offence is made out and proceedings are not liable to be quashed.

After hearing learned counsel for the parties as well as learned State counsel and after going through the record, I find that Sukhbir Singh complainant filed the complaint (Annexure P-7) against Rambir, Vijay Pal Bhati, Mahesh and Jagbir under Sections 420, 468, 471 and 34 IPC. It is stated that father of the complainant late Sh.Sohan Lal executed a lease deed on annual basis in favour of Gauri Shankar son of Gian Pal Singh. Accused No.3 and 4, who are residents of village Pali and known to the complainant, approached the complainant in December 2005 and stated that Gauri

after the death of Sohan Lal, father of the complainant, for discharging the land. The complainant along with his mother Vidya Devi and brothers, on asking of accused No.3 and 4, went to Faridabad on 31.12.2005 and put the signatures on the documents presuming that the same is required for discharging the land. On account of heavy rush and change in the rules from 01.01.2006, the documents were entered in the computer but could not be registered and the complainant returned back. Accused No.3 and 4 introduced accused No.1 as their friend, who was also present there. It is the allegation in the complaint that when civil suit was filed, the complainant came to know from the pleadings of the suit that accused No.1 and 2 in connivance with accused No.3 and 4 prepared a false agreement in respect of the agricultural land of the complainant and filed the suit for specific performance. It is denied that complainant or his family member entered into the agreement with accused No.1 and 2 or ever showed their intention to sell the property.

The perusal of the complaint itself shows that the complainant admitted his signatures on the document. He also admitted that on 31.12.2005, he along with his mother and brothers, went to Faridabad and some document was scribed. They have also gone for registration of the document, which was entered in the computer but could not be registered on that day. There is nothing on the record that who scribed the document and what was got scribed by them. There is no explanation whether the document was read over to them or whether they have signed on the blank papers. If the complainant, his mother and other persons have signed on the blank papers, then there is no explanation as to why they have signed at the asking of accused No.3 and 4. The copy of the agreement to sell has been

placed on record, which bear the signatures of the parties as well as their photographs. The said agreement was typed on stamp paper and drafted by Tara Chand, Advocate. There is no allegation against the scribe of this agreement. No attribution is there to the scribe that he also connived with the accused persons. It is in the complaint itself that witnesses/accused No.3 and 4 were known to the complainant. The civil suit filed by the accused admittedly decreed by the civil Court and the judgment has been placed on record, though the appeal is pending before learned District Judge, as argued.

The perusal of the complaint itself shows that dispute between the parties is pre-dominantly of civil nature. The complainant is denying the execution of agreement, though admitting his signatures on the document. It is for the civil Court to believe the version of the complainant or not.

From the record, I find that though for the same cause of action civil suit as well as criminal proceedings can be initiated at the same time but where the dispute is pre-dominantly of civil nature or mainly of civil nature, then filing of criminal proceedings is abuse of process of law.

In the facts and circumstances of the present case, I find that the filing of criminal complaint in the present case is nothing but abuse of process of law and amounts to miscarriage of justice. Furthermore, the enquiry report under Section 202 Cr.P.C. given by the police, is also in favour of the accused in this case.

Therefore, finding merit in the present petition, the same is allowed. The criminal complaint No.RBT-94 of 09.08.2008 under Sections 420, 468, 471 and 34 IPC, summoning order dated 30.05.2012, order dated

06.05.2013 and all subsequent proceedings arising therefrom qua the

petitioners, are hereby quashed.

July 26, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No