

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

CRM No.M-17413 of 2016 (O&M)

Date of Decision: July 12, 2016

Gurmail Singh

...Petitioner

VERSUS

Gurmail Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.S.K.Sandhir, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.16/4 dated 18.07.2006, summoning order dated 05.03.2014, order dated 13.03.2015 passed by learned Addl. Civil Judge (Senior Division) Khanna and order dated 16.02.2016 passed by learned Addl. Sessions Judge, Ludhiana, being illegal and against the facts of the case.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that a complaint has been filed by Gurmail Singh son of Ujagar Singh against the present petitioner mainly alleging that he was defaulter of the House Fed Society on 18.11.2004 and he filled the declaration form at the time of elections for becoming member of the Chakohi Co-op Agricultural Service Society Ltd. through force and unlawful means.

Learned counsel for the petitioner argued that a certificate has

been issued in the month of January showing the petitioner as defaulter on 31.12.2004. The copy of the certificate is annexure P-10. He stated that earlier, no resolution has been passed nor any notice has been given showing the petitioner as defaulter and he was not defaulter on the date, when he filled the declaration form on 18.11.2004, which is annexure P-9.

In the complaint, it has been specifically mentioned that the petitioner was defaulter on that day and still a defaulter. This fact, whether the petitioner was defaulter at the time of filling of declaration form or no, is the finding of fact, which is to be given by the trial Court on the basis of evidence to be produced by both the parties. At this stage, in the complaint, the complainant is saying that accused was defaulter on that day.

There is no document on the record, at this stage, to show that the petitioner was not a defaulter on 18.11.2004 and he gave the declaration form correctly. There is no need of passing any resolution or giving specific notice. A person, who has not paid the loan amount on the due date, himself knows that he is defaulter. As already discussed, it is the finding of fact and at this stage, there is nothing on the record from which it can be held that filing of the complaint is abuse of process of law or amounts to miscarriage of justice. The summoning order passed on the basis of preliminary evidence and the order passed while dismissing the revision, are correct, as per law. No other argument except above discussed one, has been argued before this Court.

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

July 12, 2016

Vgulati

(INDERJIT SINGH)
JUDGE