

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-19531 of 2014

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Date of decision:8.11.2016

Jagdish Singh and others

.....Petitioners

v.

State of Punjab and others

.....Respondents

.....

Present: Mr. Karan Chaudhary, Advocate for the petitioners.

Mr. D.S. Virk, Assistant Advocate General, Punjab
for the respondent-State.

Mr. N.S. Sidhu, Advocate for respondent No.4.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.27 dated 23.4.2014 (Annexure-P.1) registered for the offences under Sections 379, 506 read with Section 34 IPC at Police Station Old Shalley/Purana Shalla, Tehsil and District Gurdaspur and consequential proceedings arising therefrom which was registered on the statement of respondent No.4 i.e. Mulakh Raj son of Amar Nath in order to harass the petitioners mentally, physically and to defame and malign their status and prestige in the society and to wreak vengeance and to usurp their land forcibly under the thumb of police pressure. It has been further prayed to direct the investigating agency not to proceed with further investigation till the final disposal of the present petition on merit.

From the record, I find that Mulakh Raj got registered the FIR by stating that he is an agriculturist and owns land situated in Village Purana Shalla total 10 Kanals 16 Marlas. He had sown Sugarcane in 4 Kanals and wheat in 3 Kanals out of the above said total area of land. He and Jagpal Singh are co-sharers/partners in this area. They had got registered 22 Marlas of land out of their above stated joint holding. A case/suit is pending before the Court of Judicial Magistrate Ist Class, Gurdaspur regarding total land and on that day there was hearing in that case. An FIR had earlier been registered regarding this area of land vide FIR No.14 under Section 447 IPC after enquiry being conducted by the higher officials. A calendra under Section 145 Cr.P.C. was also pending before the Court of Sub Divisional Magistrate, wherein the next date of hearing was fixed on 20.5.2014. On that day at about 11.00 a.m., Paramjit Singh, Jagdish Singh, Jaspal Singh sons of Balkar Singh and Bobby had reaped the wheat crop sown by them in 3 Kanals with the help of combine and stolen 5/6 quintal wheat by loading the same in a trolley. Now he had seen that the trolley loaded with wheat was standing out side the 'Haveli' of Paramjit Singh. It is also in the FIR that they have threatened to kill him. It is also stated that Paramvir Singh and Sukhdev Raj were the eye witnesses to the occurrence.

Notice of motion has been issued in this case.

Mr. D.S. Virk, learned Assistant Advocate General, Punjab, has put in appearance on behalf of the respondent-State and Mr. N.S. Sidhu, learned Advocate has appeared for respondent No.4-complainant and contested this petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

Reply has also been filed by respondent No.4-complainant in detail stating as to how this land was earlier owned by Dass Mal and as to how it came to Surjit Rai, who sold 1 Kanal 2 Marlas of land vide sale deed dated 30.1.2013 to respondent No.4 and since then he (complainant) is owner in possession of that land. It is also stated in the reply that Paramjit Singh being power of attorney, after cancellation of power of attorney, executed one sale deed in favour of his own father Balkar Singh. There is also mention of so many civil suits filed by Balkar Singh and the suit filed Balkar Singh bearing No.263 of 2008 and against other co-sharers alleging same relief in the same manner stating the same facts as in the suit No.220 of 2008. The present petitioners are the sons of Balkar Singh. That suit was also dismissed vide order dated 30.9.2014 alleging therein that plaintiff-Balkar Singh cannot be said to be exclusive owner in possession of the suit land measuring 10 Kanals 16 Marlas. In the reply there is mention of other civil suits filed by Balkar Singh in which applications under Order 39 Rules 1 and 2 C.P.C. had also been dismissed. They are owners in possession of this land and mutation has been entered in their name. A perusal of the reply shows that the complainant is alleging owner in possession over the suit land and further that the accused have reaped the crop sown by the complainant.

These are the findings of fact which are to be given by the trial Court on the basis of evidence produced before it. At this stage, there is

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nothing from which it can be held that filing of present FIR amounts to abuse of the process of law or amounts to miscarriage of justice. From the perusal of the FIR, it also cannot be held that the dispute between the parties is of civil nature nor it can be held that no offence is made out at this stage.

Therefore, from the above, I do not find any ground to quash the FIR. Finding no merit in the petition, the same is dismissed.

November 8, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No