

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) CRM No.M-30119 of 2014 (O&M)

Mala Ram

...Petitioner

VERSUS

Subhash Chand and another

...Respondents

(ii) CRM No.M-38139 of 2014 (O&M)

Viney Kumar and another

...Petitioners

VERSUS

State of Haryana and another

...Respondents

Date of Decision: March 10, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.P.Sharma, Advocate
for the petitioner (in CRM No.M-30119 of 2014).

Mr.H.S.Grewal, Advocate
for the petitioner (in CRM No.M-38139 of 2014).

Mr.Himmat Singh, Deputy Advocate General, Haryana
for the respondent-State.

Mr.P.R.Yadav, Advocate
for respondent No.1 (in CRM No.M-30119 of 2014) and
for respondent No.2 (in CRM No.M-38139 of 2014).

INDERJIT SINGH, J.

This judgment shall dispose of above-mentioned two
connected cases as the matter in dispute is same in both the cases.

CRM No.M-30119 of 2014 has been filed by petitioner

Mala Ram for quashing of summoning order dated 09.05.2012 passed by learned Chief Judicial Magistrate, Narnaul whereby the petitioner was summoned to face trial under Sections 219, 466 and 120-B IPC and also challenging the judgment dated 03.06.2014 passed by learned Addl. Sessions Judge, Narnaul, whereby the revision filed against the summoning order was dismissed.

CRM No.M-38139 of 2014 has been filed by petitioners Viney Kumar and Yogender Kumar for quashing of complaint filed by Subhash Chand pending before learned CJM, Narnaul and the summoning order dated 09.05.2012 and subsequent proceedings arising therefrom.

Notice of motion was issued in both the cases. Learned State counsel as well as learned counsel for the respondent appeared and contested the petitions.

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

From the record, I find that the complainant Subhash Chand filed a complaint against Babu Singh, Tehsildar, Bhoop Singh, Reader to Tehsildar, ACO Bahadur Singh, Mala Ram, Kanongo, Parveen Kumar, Patwari Halqa, Kali Charan, Vinay Kumar, Yogender Kumar and Rama Shankar under Sections 420, 465, 466, 468, 471, 219 and 120-B IPC.

It is mainly stated in the complaint that accused No.6 Kali Charan had moved an application under Section 42 of the Consolidation Act titled as 'Kali Charan vs. Shiv Kumar'. The Director

of Consolidation had passed an order on 18.11.2005 directing the CO and the Tehsildar Narnaul to partition the land after hearing concerned parties. The complainant put his appearance before Tehsildar for taking an exception that the affected parties/co-sharers had not been impleaded as respondents and some co-sharers had already expired. It is alleged that accused No.1 had no right to review the order dated 05.06.2006 passed by his predecessor and he in connivance with accused No.2 to 9, dismissed the objections raised by the complainant on 06.04.2007. It is further stated in the complaint that accused No.1 to 9 met with each other in furtherance of conspiracy of causing wrongful loss to the complainant and wrongful gain to accused No.6 to 9 by doing illegal acts. They had joined their hands and agreed to do illegal acts by illegal means. It is also alleged that accused No.1 in connivance with accused No.2 to 9 partitioned the land and gave better quality land to accused No.6 to 9 abutting on road. Accused No.1 had passed an order dated 11.04.2007 directing the Halqa Kanungo and Patwari accused No.4 and 5 respectively, to produce field books, mode of partition etc. Similarly, another order was passed on 17.04.2007 to the effect that field books and mode of partition have been received and awaited for 23.04.2007 for filing the objections. The complainant moved an application for getting certified copies of the orders dated 11.04.2007 and 17.04.2007 and the dealing Clerk reported that the orders dated 11.04.2007 and 17.04.2007 are not available on the file on 25.04.2007 meaning thereby accused No.1 to 9 under the conspiracy, subsequently caused and manipulated two

orders dated 11.04.2007 and 17.04.2007.

It is also stated that accused No.1 to 5 being public servant, corruptly and maliciously made a report, order, verdict or decision. Accused No.1 in fact had not passed any orders on 11.04.2007 and 17.04.2007 and the same were forged under the conspiracy with accused No.2 to 5 and thus they had committed offence under Sections 420, 465, 466, 471, 219 and 120-B IPC.

At the time of arguments, it was admitted that in the appeal, the partition order passed by respondent has been upheld and appeal has been dismissed. It is further admitted that Special Leave Petition was also dismissed by the Hon'ble Supreme Court and the photocopy of the order has also been placed on the record. It is also admitted at the time of arguments that the appellate Court or higher Court has not given the findings that the orders dated 11.04.2007 and 17.04.2007 are forged orders. The partition proceedings have been decided by Sub-Registrar.

In a criminal complaint, it cannot be held that better quality land has been given to other co-sharers etc. These are the facts to be seen by the appellate Court, as argued, which has already upheld the order. The mere fact that on one date, one Clerk has stated that orders dated 11.04.2007 and 17.04.2007 are not in the file, itself will not show that these orders have been forged later on. Otherwise also, the orders dated 11.04.2007 and 17.04.2007 are simple interim/zimini orders passed in the proceedings.

Furthermore, as already discussed, as there is no such

findings by the appellate Court or higher Court regarding any forgery in the proceedings etc. therefore, in no way, it can be held that the proceedings conducted by the revenue Courts are forged one or have been done in connivance with the private respondents. Such type of complaint is nothing but abuse of process of the law. The remedy was available with the complainant to file the appeal etc. and he has already availed the legal remedies against the orders.

From the above discussion, I find that filing of the complaint and passing of summoning order is nothing but abuse of process of law and amounts to miscarriage of justice. The summoning order dated 09.05.2012 passed by learned CJM, Narnaul and the impugned judgment dated 03.06.2014 passed by learned Addl. Sessions Judge, Narnaul are not as per law and the same are set aside.

Finding merit in both the petitions, the same are allowed.

Therefore, the aforesaid complaints and summoning orders are hereby quashed.

March 10, 2016
Vgulati

(INDERJIT SINGH)
JUDGE