

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

CRM M-34119 of 2012

Date of decision : 14.01.2016

Vijay Kumar & ors.

....Petitioners

V/s

Karnail Singh & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Hitesh Sood, Advocate for the petitioners.

Mr. J.S. Thind, Advocate for respondent no. 1.

Ms. Rajni Gupta, Addl. A.G. Punjab.

RAJAN GUPTA J.

This is a petition under section 482 Cr.P.C. seeking quashing of complaint bearing no. 22237 dated 06-08-10/05-05-2011 titled as *Karnail Singh vs. Vijay Kumar & ors* registered under sections 452, 447, 435, 506, 148 & 149 IPC pursuant to summoning order dated 12.09.2012 passed by Judicial Magistrate Ist Class, Dasuya.

Learned counsel for the petitioners submits that trial court has issued the process and summoned the petitioners which is an abuse of process of law as no inquiry was conducted under section 202 Cr.P.C. prior thereto. He submits that complainant has given wrong facts regarding ownership and possession contrary to the revenue record. According to him, ownership at the relevant time was with the State Government.

Learned counsel for respondent no. 1 has opposed the plea. According to him, summoning order has been passed after considering the entire evidence on record. According to him,

provisions of section 202 Cr.P.C. are not applicable in the present case.

I have heard learned counsel for the parties.

Brief factual background of the case is that on 16.04.2010 Karnail Singh (respondent no. 1 herein) had purchased possessory rights in respect of land in question situated at village Galowal, Tehsil Dasuya, District Hoshiarpur. On 16.05.2010, petitioners alongwith some unknown persons entered into the above said land and started cultivating it. They also extended threats to respondent no. 1 and put the fodder lying on fire. Respondent no. 1 moved an application before the police. However, no action was taken. Resultantly, instant complaint has been filed. Complainant produced two witnesses in preliminary evidence who deposed on the same lines as averments made in the complaint. Certain other documents were also produced. Trial court found that petitioners needed to be summoned for offences under sections 452, 447, 435, 436, 506, 148, 149 IPC. In my considered view, the court has merely issued process on the basis of preliminary evidence which came before it. Certain factual arguments were raised during the course of hearing. Same cannot be considered in inherent jurisdiction of this court. Needless to observe that petitioners are at liberty to take all their pleas before the trial court which is yet to commence pursuant to summoning order. The petition lacks merits and does not call for interference. Dismissed.

January 14, 2016

Ajay

(RAJAN GUPTA)
JUDGE