

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 129

Criminal Miscellaneous No.M-32444 of 2016 (O & M)
Date of Decision: *September 16, 2016*

Meer Singh & others

..... PETITIONERS

VERSUS

State of Haryana

..... RESPONDENT

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Dr. Anand Kumar Bishnoi, Advocate, for the petitioners.

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Jaspal Singh, J

1. By virtue of instant petition preferred under Section 482 Cr.P.C., petitioner has sought quashing FIR No.49 dated April 29, 2016 under Sections 420, 406 IPC, registered at Police Station, Bawal, District Rewari (Annexure P-1) including all subsequent proceedings.

2. The brief facts giving rise to this petition are that Manjit Kumar son of Dharambir Singh, resident of village Asra Ka Majra, Tehsil Bawal, District Rewari, lodged a complaint to DSP Rewari on the allegations that present petitioners are having votes at two places i.e. Gram Panchayat of village Asra Ka Majra as well as Municipal Committee, Bawal. They are also casting their votes in both the elections i.e. Gram Panchayat, village Asra Ka Majra and Municipal Committee, Bawal, for the last many years. It has further been alleged by the complainant that he contested election for the post of Sarpanch against Vikas son of Dharambir in which Meer Singh etc. casted their votes in favour of Vikas, as a result of which, he

was defeated by him (Vikas) by three votes. Since Meer Singh etc. have casted their votes at two places i.e. Gram Panchayat, village Asra Ka Majra as well as Municipal Committee, Bawal, they have committed an offence under Sections 420, 466 IPC. After enquiry by DSP, FIR in question was registered and investigation was put into motion.

3. Feeling aggrieved against registration of FIR with false allegations levelled by the complainant, petitioners have approached this Court by way of instant petition.

4. The contention of learned counsel for the petitioner is that instant FIR is nothing but an out-burst of the complainant moved by the complainant who has recently been defeated in the election of Gram Panchayat, village Asra Ka Majra. He contested the election for the post of Sarpanch against Vikas son of Dharambir but lost by three votes. By concocting a false story that petitioners have casted their votes in Municipal Committee, Bawal also, he has lodged a complaint which is the foundation of the FIR in question. The allegations are not supported by way of any documentary evidence. It is amply proved on record that petitioners are the original natives of village Asra Ka Majra and on account of compulsion of their work, they have constructed their residential houses within the limits of Municipal Committee, Bawal. Otherwise, they have their ancestral houses located at village Asra Ka Majra where they are residing. Otherwise, also, the entire case of the prosecution is based upon documentary evidence which has not so far been concluded by the Investigating Agency, rather the same is being ignored. The record clearly reveals that petitioners have already applied cancellation of their votes way-back on December 09, 2015 i.e. much prior to the Panchayat Elections which were held on January 10, 2016.

cancellation of their votes shows their enlistment as votes in the area of Municipal Committee, Bawal, reveals that they had no intention to cast their votes in the Municipal Committee, Bawal.

5. Learned counsel further contends that in the instant case, from the allegations contained in the FIR, no offence under Sections 420 and 466 IPC is made out, even if the allegations contained in the FIR are taken to be correct at their face value in entirety. Moreover, one of the paramount duties of this court is also to see that a person who is absolutely innocent is subjected to prosecution and humiliation on the basis of false and wholly untenable complaint. While concluding arguments, it has been submitted by learned counsel that since allegations do not constitute any cognizable offence and the instant complaint is nothing but a result of political rivalry, FIR in question deserves to be quashed.

6. After bestowing due consideration to the submissions put-forth by learned counsel for the petitioners and scrutinizing the contents of FIR as well as record, this Court is of the considered view that no case is made out for quashing FIR in question.

7. By now, it is pretty settled that this Court, ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, first information report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclose no cognizable offence. Furthermore such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the court shall not go beyond the same and pass an order in favour of accused to hold absence of any *mens-rea* or *actus-reus*.

8. Adverting to the facts of the case in hand, there are specific allegations levelled in the complaint that petitioners did cast their votes in

Municipal Committee, Bawal during its elections as well as in the election of Gram Panchayat, village Asra Ka Majra. It is also not in dispute that petitioners are enlisted as voters at both the places. Rather, it has emerged on record that on December 09, 2015 i.e. 2/3 weeks prior to the election of Gram Panchayat was held, they had applied for cancellation of their votes registered in the area of Municipal Committee, Bawal. Meaning thereby, in addition to the enlistment of the petitioners as voters in the area of Municipal Committee, Bawal, they are also enlisted as voters and are holders of ration card and are drawing old age pension being the residents of village Asra Ka Majra. As per the allegations levelled by the complainant, the petitioners (10 in number) have been successful in casting their votes in the election for the post of Sarpanch of Gram Panchayat, Asra Ka Majra, where the complainant has lost the election of Sarpanch to Vikas, his opponent, by three votes only. Thus, at this stage, mere fact that complainant happens to be a defeated candidate in the recently concluded Panchayat elections, is itself no ground to hold that complaint has been lodged by him with an ill motive. Rather, it is a matter of evidence and no observation in this regard can be made at this stage.

9. In the light of what has been discussed above, this Court is of the considered view that there is no ground for quashing the FIR, especially in the circumstances that allegations contained in the FIR do disclose the commission of cognizable offence. Accordingly, the petition is dismissed.

(Jaspal Singh)
Judge

September 16, 2016
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Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No