

CRM-M-36388-2016

Date of Decision : 07.10.2016

Jaswant Singh and another

.....Petitioners

versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Ranjit Singh Ghuman, Advocate
for the petitioners.**M.M.S. BEDI, JUDGE (ORAL)**

Petitioners claim that they are respectable professionals of Garhshankar and are being unnecessarily harassed by Avtar Chand Executive Officer of Municipal Council, Garhshankar, District Hoshiarpur. A complaint under Section 145 Cr.P.C. has been filed by Municipal Council, Garhshankar through the said Executive Officer with an oblique motive to remove the construction raised by the petitioners on site plan No. 65. The SDM has issued summons to the petitioners vide Annexure P-2 dated 22.09.2016, purporting to be notice under the provisions of Section 145 (1) Cr.P.C, requiring the petitioners to put in appearance and file a written statement of their respective claims in respect of the facts of the property which is allegedly in unauthorized possession with valid construction, if any, of the petitioners.

Learned counsel for the petitioners has submitted that the proceedings initiated under Section 145 Cr.P.C are liable to be quashed on the ground that a civil litigation, relating to the same property, is pending, as per the civil suit filed by Municipal Council vide

Annexure P-5 against the petitioners; the application under Section 145 Cr.P.C having been filed with an oblique motive and *malafide* intention to harass the petitioners; the police report regarding the same grievance of the respondent, having already been looked into and found unfavourable to the complainant; there being no dispute regarding the possession of the property; there being no resolution passed by the Municipal Council before starting the proceedings under Section 145 Cr.P.C. and the proceedings before the Sub-Divisional Magistrate being without jurisdiction, on account of alternative remedies being available and that the circumstances do not warrant the adjudication of the dispute by the Sub-Divisional Magistrate, pertaining to the immovable property under the provisions of Section 145 Cr.P.C.

The grievance of the petitioners has already been brought to the notice of the police and has been under consideration of the police authorities. I have heard learned counsel for the petitioners. Adjudicating upon all the pleas, raised by the petitioners, in view of the other factual circumstances, will not be appropriate for this Court, in exercise of powers under Section 482 Cr.P.C. as the numbers of law points have been raised.

It is pertinent to observe here that an application under Section 145 (1) Cr.P.C. has been filed by the respondent. The summons having been issued to the petitioners, the petitioners are required to put up a detailed written statement of the claim of the petitioners in respect of the facts. The facts of law can be raised by filing the written

statement. It is expected that the SDM, Garhshankar before proceeding under Section 145 Cr.P.C., would act fairly within the parameters of the jurisdiction of the Court. In case of any violation of the provisions of law or in case, any authority usurps the jurisdiction of the other, it will always be open to the petitioners to approach this Court to challenge the legality and propriety of the order and to prevent the mis-use of the process of the Court.

This petition is disposed of as premature without prejudice to the right of the petitioners to approach this Court, after submission of the written statement before SDM, Garhshankar.

(M.M.S. BEDI)
JUDGE

07.10.2016
Neha

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No