

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-8056 of 2013 (O&M)
Date of decision : February 09, 2016

Siri Ram and others

...Petitioners...

versus

Surjit Singh

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. P.S. Hundal, Sr. Advocate with
Mr. Monu Loonia, Advocate,
for the petitioners.

Mr. Arun Sharma, Advocate,
for the respondent.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

JASPAL SINGH, J.

The instant petition has been preferred under Section 482 of the Code of Criminal Procedure (for short, "Cr.P.C.") preferred by Siri Ram and others-petitioners seeking quashing of criminal complaint No.91-1, 13.08.2007, under Sections 420, 465, 467, 468, 471 and 120 IPC, District Fazilka (Annexure P-1) and summoning order dated 11.01.2013 (Annexure P-2) to prevent an abuse of the process of Court.

2. It is pretty settled that where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is

maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, deserves to be quashed.

3. Adverting to the facts of the case in hand, complaint was lodged by respondent-Surjit Singh against the petitioners under Sections 420, 465, 467, 468, 471 and 120-B IPC alleging that petitioners have forged and fabricated the pronote and receipt in connivance with each other. Petitioner No.2 is the husband of the sister of petitioner No.1 and is engaged in the business of Commission Agency, in the name and style of M/s Banwari Lal Raja Ram, Commission Agents, Fazilka, whereas petitioners No. 3, 4 and 5 is lambardar, attesting witness and deed writer, respectively of the pronote and receipt dated January 19, 2006. Blank pronote and receipt bearing the signatures of the complainant is alleged to have been handed over to petitioners No. 1 and 2 as security purpose as they were dealings in between the respondent and the above referred firm but the complaint on the face of it reflects that it has been instituted maliciously just to cause harassment to the petitioners, that too, with mala fide intention. This fact is evident from the documents available on file. On the basis of the pronote and receipt, in question, Siri Ram-petitioner No.1 filed a civil suit for recovery in the month of September 2007 and that suit has been resisted by respondent-complainant/Surjit Singh. Even, he also appeared as a witness and filed his affidavit Ex.PW1/A in the said suit. Ultimately, the said suit was decreed in favour of petitioner No.1

vide judgment and decree dated December 09, 2011 (Annexure-P-6). Not only this, respondent-Surjit Singh filed a suit for rendition of account in the month of August 2007 directing/ordering the defendant i.e. M/s Banwari Lal Raja Ram, Commission Agent, Fazilka through petitioner No.2 to render true, proper and correct account from the year 2005 onwards. The said suit was contested by petitioner No.2 and after hearing learned counsel for the parties and appraisal of the evidence brought on record by the parties, the said suit was dismissed vide judgment and order dated February 17, 2011. There is nothing on the record to suggest that respondent-Surjit Singh ever filed any appeal against either of the judgments rendered against him. Meaning thereby, that both the judgments have become final and conclusive. Since, suit for recovery on the basis of pronote and receipt has already been decreed by the civil court and judgment has become final and conclusive between the parties, now, it does not lie in the mouth of the respondent to say and allege that the pronote and receipt in question are forged and fabricated documents.

4. It is well settled proposition of law that the judgment of civil court is binding upon the criminal court. Since, the pronote and receipt, in question, have been accepted by the civil court, instant complaint is nothing but an abuse of the process of law and appears to have been filed with an ulterior motive to save his skin from the consequences of the pronote and receipt.

5. In the light of what has been discussed above, this Court is of the considered view that the impugned complaint and

summoning order are not sustainable in the eyes of law. As such, same are quashed along with all consequential proceedings emanating therefrom by way of acceptance of instant petition qua the petitioners.

February 09, 2016

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**(JASPAL SINGH)
JUDGE**