

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

**Criminal Revision No.4482 of 2015
Date of Decision: February 15, 2016**

Preetmohan Singh & Anr.

...Petitioners

Versus

Vipanjit Kaur & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mohd.Yousaf, Advocate,
for the petitioners.

Naresh Kumar Sanghi, J.(Oral)

Challenge in the criminal revision petition is to the judgment dated 31.08.2015 passed by learned Additional Sessions Judge, Gurdaspur, whereby the revision petition filed by the respondent/informant/Vipanjit Kaur, challenging the order dated 16.10.2012 passed by learned Judicial Magistrate First Class, Batala, discharging the petitioners from the case arising out of FIR No.35 dated 05.06.2012, under Sections 447 and 506 read with Section 34, IPC, registered at Police Station, Qadian Police, District Batala, District Gurdaspur, was accepted.

Learned counsel contends that the petitioners being co-sharers of the land in dispute were presumed to be in possession of the same and as such, they cannot be prosecuted for the offence punishable under Section 447, IPC. He further

contends that the ingredients of Section 506, IPC, were not attracted and as such, no case was made out for proceeding against the petitioners for the offences punishable under Sections 447 and 506, IPC. In support of his contention, he has placed reliance on the matter of **Gurmeet Singh vs. Rachhpal Singh, 2004(2) RCR(Criminal) 72.**

I have heard learned counsel for the petitioners and with his able assistance gone through the material available on record.

The FIR in question was registered on the statement of Vipanjit Kaur (respondent) alleging that after the death of her father, she inherited 9 kanals and 13 marlas of land by way of succession. The mutation of the said land was also sanctioned in her favour. Preetmohan Singh (petitioner No.1) had forged the Will in respect of some piece of land and FIR No.62 of 2011 for the offences punishable under Sections 120-B, 420, 467 and 471, IPC, was registered against him (Preetmohan Singh) at Police Station, Qadian. On the date of occurrence, Preetmohan Singh ploughed the land which was in possession of Vipanjit Kaur. When Vipanjit Kaur went to the village then Preetmohan Singh threatened to kill her. The FIR for the offences punishable under Sections 447 and 506 read with Section 34, IPC, was registered. After completion of the investigation, the charge-

sheet (report under Section 173, Cr.P.C.) was presented before learned Area Judicial Magistrate. Vide order (Annexure P-3) learned Area Judicial Magistrate discharged the petitioners against which a criminal revision was presented by the respondent which was accepted by learned Additional Sessions Judge, Gurdaspur.

The ratio of the judgment relied upon in **Gurmeet Singh's** case (supra) by learned counsel for the petitioners will not come to help of the petitioners since that was a simple case of dispute between the co-sharers. In the case in hand, the respondent-complainant had alleged that she was in possession of the land which was ploughed by the petitioners. Not only that, further allegations are with regard to threatening to kill the informant.

Learned Revisional Court/Additional Sessions Judge, Gurdaspur, after scrutinizing the material available on record, rightly set aside the order of discharge.

This Court also finds that there is ample evidence to presume that the petitioners had committed the offences for which they have been ordered to be charge-sheeted. It is very much clear that disputed questions of facts cannot be considered for discharge of the accused under Section 239, Cr.P.C.

As a sequel to the above, no ground for interference by this Court while exercising the jurisdiction under Section 482, Cr.P.C., is made out.

Dismissed.

February 15, 2016
seema

(Naresh Kumar Sanghi)
Judge