

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

**CRM-M No.15405 of 2011 (O&M)
Date of decision : December 20, 2017**

Ranbir Singh

..... Petitioner

Versus

Neelam and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Arihant Jain, Advocate for the petitioner.

None for the respondent.

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

KULDIP SINGH J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing the order dated 04.02.2011 (Annexure P-5) passed by Addl. Sessions Judge, Jind and the order dated 04.03.2010 (Annexure P-3) passed by learned Addl. Chief Judicial Magistrate, Jind, vide which a criminal complaint filed by the petitioner titled as “*Ranbir Singh vs Neelam and others*” under Sections 379, 411, 452, 506 read with Section 120-B IPC was dismissed at the stage of framing of charge and the accused-respondents were discharged.

Heard. File perused.

It comes out that the allegations of the petitioner are that on 03.04.2006, he had gone to Delhi Hospital in connection with the treatment of the father of the petitioner, who suffered a heart attack, accused-respondent Nos.1 to 3 harvested the wheat crop with the combine. Accused-respondent No.4 was driving a canter and accused-respondent No.5 was

using tractor trolley.

A perusal of the order passed by the learned Magistrate shows that accused-respondent Nos.1 to 3 are none else than the wife and sons of the petitioner. The learned Magistrate had also called for the report of the police under Section 202 Cr.P.C., in which the police reported that accused-respondent Nos.1 to 3 are in cultivating possession of the disputed six acres of land which was given to them in lieu of maintenance. It was further reported that the petitioner was in the habit of beating his wife and children under the influence of liquor. In order to defuse the tension between the complainant and accused-respondent Nos.1 to 3, a Panchayat was convened in the village, wherein six acres of land was given by the complainant to them. The wheat crop was sown by accused-respondent Nos.1 to 3 at their own expenses and the same has been harvested.

The learned Magistrate also relied upon several contradictions. The complainant admitted in his cross-examination that accused-respondent Nos.1 to 3 are in cultivating possession of the land. However, he claimed that they are in forcible possession of the land. He also admitted that he had filed a civil suit for recovery of stolen wheat by way of mandatory injunction, which was withdrawn by him on 01.05.2006.

The learned Magistrate also doubted the version given by the witness while discussing the statement of CW-3 Sunil Kumar, the alleged eye witness. The learned Magistrate found that said Sunil Kumar could not tell the number of the tractor. He claimed that the complainant had divorced his wife Neelam (accused-respondent No.1) way back. He is ignorant about the compromise effected between the complainant and his wife and his children.

The parameters for framing of the charges in complaint case are well settled. In the instant case, even from the pre-charge evidence recorded by the Magistrate, he was of the opinion that the evidence was insufficient to record conviction. Since the evidence of the complainant-petitioner is such that is unlikely to result in the conviction of the accused-respondents, therefore, the discharge order dated 04.03.2010 (Annexure P-3) passed by learned Addl. Chief Judicial Magistrate, Jind and the order dated 04.02.2011 (Annexure P-5) affirming the order of the learned Addl. Chief Judicial Magistrate, Jind passed by learned Addl. Sessions Judge, Jind are perfectly in accordance with law.

As such, the present petition is dismissed.

(KULDIP SINGH)
JUDGE

December 20, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No