

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

CRM No.M-22160 of 2015 (O&M)

Date of Decision: July 18, 2017

Gurmukh Singh and others

...Petitioners

VERSUS

Raghubir Singh alias Roda

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.H.P.S.Ghuman Advocate,
for the petitioners.

Mr.J.S.Bhandohal, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioners Gurmukh Singh, Rajinder Singh, Harminder Singh and Jasvir Singh have filed this petition under Section 482 Cr.P.C. against respondent Raghubir Singh @ Roda for quashing the complaint No.33 of 2014 filed under Sections 379, 427, 506 and 120-B IPC, summoning order dated 05.05.2015 passed by learned JMJC, Nabha, as the complaint has been filed for settling political scores as the petitioners belong to Akali Dal Party and the complainant belongs to Congress Party.

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Raghubir Singh @ Roda filed the

complaint against Lakhvir Singh, Gurmukh Singh, Rajinder Singh, Harvinder Singh and Jasvir Singh under Sections 379, 427, 506 and 120-B IPC. It is mainly stated in the complaint that in the last Gram Panchayat, complainant was Sarpanch of the village and was looking after the lands of Gram Panchayat and other common lands. As per the complainant, there is one cottage of Baba Hari Dass in the land and there are trees in the surroundings of the cottage. Accused No.1 Lakhvir Singh in connivance with other accused uprooted and taken away three trees of *neem* without the permission of the panchayat. Lakhvir Singh has uprooted the above-said trees and committed theft in connivance with other accused persons.

Learned counsel for the petitioners brought it to the notice of the Court the Resolution passed by Gram Panchayat dated 17.03.2013, copy of which is Annexure P-3. I have gone through this document. It is stated in this Resolution that from the ownership of the Panchayat in Shamlat land, two *neem* trees have been uprooted, with theft, by Lakhvir Singh in the absence of Gram Panchayat and has sold the same. He was prevented from uprooting the trees by the Panchayat but he did not pay any heed to the Panchayat. Therefore, through DDPO, the copy of the Resolution is being sent to higher officers for appropriate action. Annexure P-4 is the FIR No.50 dated 07.06.2013 under Section 379 IPC, in which also, the allegation has been levelled only against Lakhvir Singh that he has uprooted and sold three *neem* trees. Then there is report of Deputy Superintendent of Police, City-2, Patiala dated 08.08.2013, which was given in favour of Lakhvir Singh and it is stated in this report that these trees had been uprooted from the cottage of the Baba during the lifetime of Baba and

been got registered against Lakhvir Singh, is totally false.

The Resolution is dated 17.03.2013 and the present complaint is stated to have been filed on 13.03.2014 i.e. after almost about one year.

The perusal of the documents, especially the Resolution and the FIR shows that one year earlier in the Resolution and the FIR, no allegations have been levelled against the present petitioners qua any kind of involvement. Even in the complaint, allegation is levelled only qua connivance. As argued, no action has been taken on the FIR.

Keeping in view the above facts, I find that the complainant, without any cogent evidence, has filed the complaint against present petitioners. The Gram Panchayat in the Resolution never named these petitioners. No role is attributed nor these petitioners are named in the FIR.

In view of the above discussion, I find that filing of the present complaint is nothing but abuse of process of law and amounts to miscarriage of justice. Therefore, finding merit in the present petition, the same is allowed. Complaint No.33 of 2014 filed under Sections 379, 427, 506 and 120-B IPC, summoning order dated 05.05.2015 passed by learned JMIC, Nabha and all other subsequent proceedings arising therefrom, are hereby quashed qua the petitioners.

July 18, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No