

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M-36499-2012

Date of Decision: 03.08.2017

Avtar Singh and another

..Petitioners

versus

Lakhwinder Pal Singh and another

..Respondents

CORAM: HON'BLE MR.JUSTICE RAMENDRA JAIN

Present: Mr. Akshay Jindal, Advocate, for the petitioners.

Mr. Vivek Goyal, Advocate, for respondent no.1.

Mr. Surender Singh, AAG, Haryana, for respondent no.2.

RAMENDRA JAIN, J.

Prayer in this petition under section 482 of the Code of Criminal Procedure has been made for quashing complaint case no.36/12 filed on 15.4.2010 under sections 420/467/468/471 and 120-B IPC (Annexure P-1) and summoning order dated 13.10.2012 (Annexure P-2), whereby the petitioners have been summoned under sections 420 and 120-B IPC.

Briefly stated, Santokh Singh, father of the complainant, had taken land measuring 46K-12M situated at village Haripura Sub Tehsil Babain, District Kurukshetra, on lease for a period of 91 years from Gurjit Kaur wife of Gurdeep Singh and Amarjit Kaur wife of Avtar Singh (petitioner no.2) vide registered lease deed no.1257 dated 27.2.1992 at the rate of Rs.6000/- per annum. Taking benefit of the cordiality in relations with each other, the petitioners, according to complainant-respondent no.1 Lakhwinder Pal Singh, who was the son of sister of petitioner no.1 Avtar Singh and Santokh Singh, father of respondent no.1-complainant, who was

brother-in-law of petitioner nos. 1 and 2, got executed and registered a forged document regarding cancellation of the lease deed dated 27.2.1992, in favour of Santokh Singh, inasmuch as his father was addicted to bad vices. With these allegations, complainant Lakhwinder Pal Singh got registered FIR No.89 dated 12.11.2008 against Avtar Singh-petitioner no.1 only. However, on coming to know that the police was intending to cancel the aforesaid FIR and was going to file a cancellation report in the court, complainant Lakhwinder Pal Singh filed a private complaint dated 15.4.2010 with the same allegations, in the court of Judicial Magistrate 1st Class, Kurukshetra, wherein, the trial Magistrate, after recording the preliminary evidence, summoned the petitioners vide order dated 13.10.2012 (Annexure P-2).

Learned counsel for the petitioners contends that the trial Magistrate has erred in summoning the petitioners, particularly when the complainant, in his complaint, had mentioned the factum of the cancellation report, which, by that time, was not filed before the trial court. Upon notice of this cancellation report, the complainant appeared before the trial court and raised protest, but when he did not file the protest petition, the trial Magistrate, vide order dated 23.8.2013, accepted the cancellation report. He further contends that the trial Magistrate was not competent to summon the petitioners without calling upon a report under section 210, Code of Criminal Procedure, from the police with regard to the FIR registered on similar allegations against petitioner no.1.

On the other hand, learned counsel for the respondent no.1-complainant has vehemently opposed the above submissions made by learned counsel for the petitioners and contended that the FIR was lodged

against only petitioner no.1, whereas the impugned private complaint was filed against two persons after preparation of cancellation report by the police in the FIR case and therefore, the private complaint and the summoning order are quite legal and valid.

I have given thoughtful consideration to the submissions made by both the sides.

Undisputedly, the complainant, in his private complaint, has specifically disclosed the factum of preparation of the cancellation report by the police in the FIR case got registered by him. Therefore, in the considered opinion of this court, it was incumbent upon the trial court to comply with the provisions of Section 210, Code of Criminal Procedure and should have called for a report in the matter from the police officer conducting the investigation. However, be that as it may, the said compliance or non compliance of the aforesaid provisions of Section 210, Code of Criminal Procedure, has lost its significance as on today, in view of the fact that the cancellation report has already been accepted by the trial court on 23.8.2013 and the matter qua the FIR, registered by the complainant on similar allegations, has been set at rest by the trial Magistrate and resultantly, as on today, the private complaint of the complainant is pending adjudication in which the petitioners have been summoned.

In view of the factual position explained above, I do not find any illegality or impropriety in the impugned complaint and the summoning order dated 13.10.2012 passed by the trial Magistrate. Consequently, the petition, being without any merit, fails and is dismissed. The trial court is directed to proceed further with the complaint, in accordance with law and

in case, at any point of time, the cancellation report is reopened on protest of the complainant, in that eventuality, the same shall also be tried together with the private complaint filed by the complainant.

03.8.2017
VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether reasoned/speaking | Yes/No |
| 2. | Whether Reportable | Yes/No |