

In the High Court of Punjab and Haryana at Chandigarh

216

CRR-2938-2016

Date of decision: 9.1.2017

GRAM PANCHAYAT SUNARIAN

.....petitioner

Versus

SIRI CHAND AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Parveen K.Kataria, Advocate
for the petitioner.

Mr.Karamjit Verma, Advocate
for respondents No.1 to 5.

Raj Mohan Singh, J.(oral)

Petitioner has assailed order dated 27.5.2016 passed by Sub Divisional Judicial Magistrate, Shahbad, whereby application for substitution of power of attorney of the complainant was dismissed.

For the purpose of decision of the present revision petition Randhir Singh, the then sarpanch of the gram panchayat, is also allowed to be impleaded in the present revision petition.

Gram Panchayat Sunarian filed a complaint under Sections 379, 427, 431, 149/34 IPC against the respondents in the Court of Judicial Magistrate, Ist Class, Shahbad on 13.6.2013 in respect of damaging the road constructed by the gram panchayat and also for stealing the bricks. The complaint was filed through the then Sarpanch Sh.Randhir Singh,

who was authorised by means of special resolution of the gram panchayat.

In the complaint, it was alleged that the occurrence was witnessed by Samar Singh, Jagdish, Suchcha and Maya Ram. After adducing preliminary evidence, trial Court summoned respondents No.1 to 5 under Sections 379, 427, 431, 149/34 IPC vide order dated 19.2.2015. Thereafter, the case was adjourned for pre charge evidence. In the meanwhile there was change in the nomenclature of the panchayat and a new body has come into existence. The new sarpanch has been elected and new composition of the panchayat authorised one Virbhan, panch, to represent the cause on behalf of gram panchayat in the trial Court. An application for substitution of power of attorney of the complainant was moved before the trial Court. The trial Court dismissed the application vide the impugned order dated 27.5.2016 on the premise that the complaint was filed through the earlier sarpanch Randhir Singh, whose statement was recorded in the preliminary evidence on 3.10.2013. He has been examined as CW-2 in pre charge evidence on 16.11.2015 and the case is still pending for pre charge evidence of the complainant.

Learned counsel appearing on behalf of Randhir Singh submitted that all the witnesses, namely, Samar Singh,

Jagdish, Suchcha and Maya Ram have already been examined in pre charge evidence besides examination of Randhir Singh as CW-2. Learned counsel alleged that in order to rule out any possibility of collusion between gram panchayat and the accused, presence of Randhir Singh is required in the present case.

I am not impressed by the submissions made by learned counsel for Randhir Singh at this stage. Since the witnesses have already been examined in pre charge evidence, necessary consequence to follow in the event, if they are sought to be cross-examined by defence side in due course. In view thereof since an elected body has come into being who will represent the cause of complainant gram panchayat by means of fresh resolution in favour of one of the panch, namely, Virbhan, therefore in my considered opinion application for substitution of power of attorney of the complainant needs to be allowed. Both the parties would be at liberty to follow their legal remedies in accordance with law thereafter.

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

January 09, 2017
anita

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No