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

CRR No.931 of 2017 (O&M)

Date of decision: March 24, 2017

Jal Singh and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. S.P.S. Sidhu, Advocate for the petitioners.

Mr. G.S. Salwara, DAG Haryana.

Mr. Anhul Singh, Advocate for the complainant.

A.B. CHAUDHARI, J (Oral)

CRM No.9763 of 2017

Heard.

Application is allowed and Annexure C-1 is taken on record.

CRR No.931 of 2017 (O&M)

This is a revision petition filed by the petitioners against the order dated 01.03.2017, in Sessions Case No.68 of 2014, passed by the Additional Sessions Judge, Karnal, by which the learned judge rejected the application under Section 321 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') seeking permission/consent to withdraw the prosecution against accused persons.

Heard learned counsel for the rival parties and perused the impugned judgment.

Learned counsel for the petitioners contended that the trial Court erred in not granting necessary permission contemplated to Section 321 Cr. P.C. to the State Government to allow withdrawal of the prosecution and the Court has to play no role in the matter. According to him, learned trial Court should have accepted the request for withdrawal of the prosecution. He relied on the following judgments:-

“Sheo Nandan Paswan versus State of Bihar and others, 1987 AIR (SC) 877, Abdul Karim versus State of Karnataka, 2000 (4) RCR (Criminal) 688, Ghanshyam versus State of M.P. & others, 2006 (4) RCR (Criminal) 653, Sheonandan Paswan versus State of Bihar and others, 1983 AIR (SC) 194 and Rajender Kumar Jain versus State Through Sp. Police Establishment and others, 1980 AIR (SC) 1510.”

It is not in dispute that there are counter cases between the parties. It is also not in dispute that the counter case filed against the complainant by the petitioners, is still pending and there is no move to withdraw the same by anybody. The petitioners are the persons who succeeded in getting an order from the State Government under Section 321 Cr. P.C. for withdrawal of the prosecution against them. The arguments that the Court has no role to play and has to grant permission mechanically sought by the State through public prosecutor is misconceived. That is not the correct legal position. The judgments cited by the learned counsel for the petitioners have no application and the principles laid down therein cannot be disputed. Trial Court has

given following reasons for declining the request and I quote the reasons from the said order as under:-

“The dispute between both parties is with regard to immovable property, which was duly and legally given in consolidation proceedings to one party but another party by muscle power forcibly thwarted the de jury owners out of same. If in present case, permission is given to Public Prosecutor for withdrawal of present case in which charge has been framed by this Court by applying mind then certainly injustice would be caused to complainant party, which is indirectly accused party in another case, pending before this Court, as mentioned above. Hence, this Court is of the considered opinion that Public Prosecutor did not apply his mind to the material evidence, brought against accused, before moving application under Section 321 of Cr. P.C. Certainly, injustice would be caused not only to complainant party but to the general public as well because bad message would go to general public that de jury owners have been forcibly thwarted by muscle men of their bonafide properties after destruction of material part thereof”.

I agree with the above reasons recorded by the trial Court.

In the result, I find no merit in the present revision petition.

Petition stands dismissed, accordingly.

(A.B. CHAUDHARI)
JUDGE

March 24, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No