

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

CWP No. 20493 of 2017

Date of decision : 30.10.2017

Raj Kumar & ors.

....Petitioners

V/s

State of Haryana & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rakesh Sachdeva, Advocate for the petitioners.

Mr. Rohit Arya, Asst. A.G. Haryana.

RAJAN GUPTA J.

Petitioners have sought transfer of investigation pursuant to FIR No. 243 dated 21.04.2017 registered at police station Surajkund, District Faridabad, alternatively for issuance of writ of certiorari for quashing aforesaid FIR. Petitioners who are residents of village Lakkadpur, Surajkund, Faridabad allege that they were forcibly evicted from their houses by officials of Haryana Police, HUDA and the muscle men of respondents no. 2 to 6. Thereafter, they were taken to the Surajkund police station and beaten up mercilessly. FIR No. 243 under sections 353/332/186/436/511/427/34/307 IPC was also registered against them and other unknown persons. Later they came to know that their houses had been demolished by respondent no. 1. They were, however, released on bail. According to petitioners, this incident occurred as respondents no. 2 to 9 acted in connivance to usurp their land. Due to this they were involved in a false case by the respondents. Learned State counsel has filed affidavit of Shakir Hussain, Assistant Commissioner of Police, NIT, Faridabad. Referring to same, learned State counsel submits that FIR in question was

Faridabad. He alleged that petitioners had illegally encroached upon Green Belt at Suraj Kund Road, Faridabad. Exercise to remove the encroachment was undertaken pursuant to directions issued by the competent authority. However, petitioners alongwith other co-accused caused hindrance in the process. They also caused injuries to the persons who were discharging their official duty and set the public property on fire.

The trial court on the basis of statements of the witnesses and final report submitted by the police, framed charges against the accused under sections 332/34, 353/34, 307/34, 436/34, 427/34 IPC. On due consideration of the matter, I am of the view that prayer for transferring the investigation of the case to CBI is misconceived. Investigation has already been completed and one prosecution witness examined. There is nothing on record to show that there is any flaw with the investigation. From the averments made in the petition, it is evident that same is totally frivolous in nature. According to affidavit filed by Shakir Hussain, Assistant Commissioner of Police, Faridabad petitioners Raj Kumar alongwith co-accused Raju Prajapati caused loss to the property and inflicted injuries to public servant. They sprinkled kerosene oil on a JCB machine owned by HUDA. They also set one hut on fire. The accused created law and order problem for the authorities. Under the circumstances, there is no ground to interfere in writ jurisdiction. Petitioners have not approached the court with clean hands. Same is totally frivolous and possibility that it has been filed with some oblique motive cannot be ruled out. Petition is, thus dismissed with ₹30,000/- as costs.

October 30, 2017

Ajay

Whether speaking/reasoned:

(RAJAN GUPTA)

JUDGE

Yes/No

Whether reportable: Yes/No