

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-15448-2012 (O&M)

Date of decision: 10.08.2018

Malkeet Singh and another

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. PS Bhangu, Advocate for the petitioners.

Mr. Yashwinder Singh, DAG, Haryana.

Ms. Nupur Choudhary, Advocate for respondent No. 2.

RAMENDRA JAIN, J. (ORAL)

1. Vakalatnama filed on behalf of respondent No. 2 is taken on record. Office to tag the same at the appropriate place.

2. Through the instant petition under Section 482 Cr.P.C., prayer has been made for quashing FIR No. 425 dated 17.12.2010 (Annexure P-1) registered under Sections 147, 149, 186, 353, 427, 447 and 506 IPC at Police Station City, Narnaul.

3. Briefly stated, on 11.10.2010, the employees of respondent No. 2-Municipal Committee/Council, Narnaul along with Government Officers, equipped with JCB Machine, tried to vacate Town Plan/Municipal Khasra No. 4037, removing illegal encroachment. The petitioners obstructed them by pelting stones and threatened to kill them. The petitioners also damaged

Committee/Council, Narnaul, lodged FIR (Annexure P-1) at Police Station City, Narnaul. After due investigation, police filed a final report under Section 173(2) Cr.P.C. against the petitioners for committing offences under Sections 147, 149, 186, 353, 427, 447 and 506 IPC. However, before charge-sheet was served upon petitioners under the aforesaid sections, they approached this Court by way of this petition.

4. Learned counsel *inter alia* contends that the petitioners have nothing to do with Khasra No. 4037 in question. They have never obstructed the Government Officers or the employees of respondent No. 2. Khasra No. 4037 was not owned by the Municipal Committee/Council, Narnaul. The petitioners are owners in possession of Khasra Nos. 1704, 1705, 1706, 1707 and 1709 measuring 1800 Sq. Yards which are far away from Khasra No. 4037 in dispute. The petitioners were declared owners of the aforesaid khasra numbers in a litigation, which went up to the Hon'ble Apex Court. As per demarcation report dated 15.11.2011 (Annexure P-7), Khasra No. 4037 claimed by the Municipal Committee/Council, Narnaul was not owned by it. Rather, the same was in fact, owned by Parbhati, Amilal, Sohan sons of Sh. Hardayal son of Tulla Ram residents of Deh to the extent of half share and for rest half share, the co-owners are Budh Ram, Shankar Lal, Suresh sons of and Smt. Kalawati, Lila daughters of Smt. Kisturi widow of Prabhu. Therefore, the story put forth by respondent No. 2, claiming ownership of Municipal Committee/Council, Narnaul over Khasra No. 4037, while lodging the FIR is completely false. Petitioner No. 2-Surender Singh, filed CWP-19147-2010, against respondent No. 2-Municipal Committee/Council, Narnaul, for prohibiting it from interference or to illegally dispossessing the petitioners from the land owned and

possessed by them, as they had been declared owner of the same up to the Hon'ble Supreme Court in SLP No. 3126 of 2010 (Annexure P-3). The said CWP-19147-2010 was disposed of by this Court vide order dated 26.10.2010 (Annexure P-4), directing Municipal Council, Narnaul, not to evict the petitioner except in due course of law. The impugned FIR has been registered falsely.

5. On the other hand, learned counsel for respondent No. 2 vehemently opposing the above submissions submits that learned counsel for the petitioners by confusing the matter, illegally wants to get the impugned FIR (Annexure P-1) quashed, which was registered genuinely by respondent No. 2. In fact, there are two khasras in District Narnaul having same number i.e. 4037, out of which, one is revenue number denoted by the Revenue Authorities pertaining to agricultural land and another Khasra No. 4037 owned by Municipal Committee/Council, situated within the Municipal Limits i.e. within the '*Lal Dora*'. As per demarcation report dated 07.12.2013 (Annexure R-2/3, Colly), got conducted by the District Magistrate, Mohindergarh at Narnaul, in compliance to the order dated 19.09.2013 of this Court, illegal encroachment of the petitioners was found, thereupon by raising a pucca boundary wall shown in green colour in site plan which has been made part of the report. The petitioners in para Nos. 6 and 8 of their petition have categorically admitted that they had resisted the officials of respondent No. 2 and the police from illegally dispossessing them from the land owned by them, after winning their legal battle up to the Hon'ble Supreme Court which, in itself, is sufficient to say that the FIR in question lodged against the petitioners is not false, rather is based on true occurrence.

6. Having given considerable thoughts to the submissions made by learned counsel for both the sides, this Court finds the instant petition completely devoid of any merit for the reasons to follow:

7. The incident 11.10.2010 is admitted by the petitioners in their petition for which the impugned FIR (Annexure P-1) was lodged against them. The encroachment over Khasra No. 4037 is also proved by demarcation report (Annexure R-2/3, Colly) got conducted, pursuant to the orders of this Court dated 19.09.2013. Undisputedly, the petitioners are not owners of Khasra No. 4037. Therefore, they had no legal right to resist the officials of Municipal Committee/Council, Narnaul, Government Officers and police party, from removing illegal encroachment over the same by un-authorized persons. Since, as per demarcation report (Annexure R-2/3, Colly.), the petitioners have been found in illegal possession of aforesaid Khasra No. 4037, therefore, the version got recorded in the FIR by respondent No. 2 that the petitioners pelted stones upon its employees, Government Officers and police party and resisted the removal of un-authorized encroachment, *prima facie*, is genuine and correct.

8. Revenue Khasra No. 4037 is distinctly situated from Khasra No. 4037 in question. The land owned and possessed by the petitioners bearing Khasra Nos. 1704, 1705, 1706, 1707 and 1709 measuring 1800 Sq. Yards, has nothing to do with the land in question. Therefore, it is clear that the petitioners with intention to retain their illegal possession over the land of Municipal Committee/Council, Narnaul on 11.10.2010, committed crime as alleged in the FIR.

9. The order dated 26.10.2010 (Annexure P-4) of this Court passed in CWP-19147-2010, filed by petitioner No. 2-Surender Singh, has

no relevancy for adjudication of this case, inasmuch as, in the said writ petition, petitioner No. 2 had claimed prohibitory order against respondent No. 2 with regard to his ownership and possession over Khasra Nos. 1704, 1705, 1706, 1707 and 1709, not to evict him from the said khasra numbers. However, on 11.10.2010, the employees of respondent No. 2, Government Officers with the help of police party, had never gone to evict the petitioners from khasra numbers aforesaid, rather had gone to dispossess them from Khasra No. 4037, which they are occupying illegally and un-authorizedly.

10. In view of the discussion made above, the instant petition fails and the same is dismissed. Trial Court is directed to proceed with the trial, in accordance with law.

11. Needless to mention here that because of pendency of this petition, the trial has become quite old, therefore, the same be concluded expeditiously.

August 10, 2018

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No