

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

**CRM-M-1742-2018
Date of decision:-17.1.2018**

Balkar Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Atul Lakhanpal, Senior Advocate with
Mr.Gagandeep Singh, Advocate
for the petitioners.

H.S. MADAAN, J.

By way of moving the present petition, petitioners Balkar Singh and Kulwinder Kaur seek quashing of calendar (Calandra) under Sections 107/150 Cr.P.C. pending in the Court of S.D.M., Nakodar.

According to the petitioner, he along with his six elder brothers and sisters had inherited 16 acres of land from their father S.Puran Singh and mutation qua them had been entered in the revenue record; that the land is still joint though the co-sharers are in separate possession of their shares by mutual consent; that petitioner No.2 is daughter of petitioner No.1, who is happily married and is residing in her matrimonial home; that the two other children of petitioner No.1 are abroad and his wife has already died; that petitioner No.1 is residing all

alone in the village; that taking advantage of that fact respondents No.2 and 3 have set an evil eye on the property of petitioner No.1 and they have been troubling him on one pretext or the other and do not allow him to cultivate or to get his land cultivated by holding out threats and hurling abuses; that petitioner No.1 had submitted representations to SHO and DSP, Shahkot against such respondents No.2 and 3 with a prayer to take action against them; that as a counter-blast respondents No.2 and 3 by exercising their influence have got initiated proceedings under Sections 107/150 Cr.P.C., now pending before SDM, Shahkot; that though petitioner No.2 is not named in the calandra yet the SDM, Shahkot is insisting on her presence just to spoil the matrimonial home. As such, the petition be accepted.

I have heard learned counsel for the petitioners besides going through the record. A perusal of the file goes to show that petitioners themselves have attached a document Annexure P3 in the form of General Diary Details, which is as under:

At 9:40 a.m. on 27.6.2017 one MLR No.NS/60/2017 was registered on the statement of Jagdish Singh son of Malkiat Singh r/o Narangpur, P.S. Mehatpur regarding the dispute and went home. Regarding which SI Jitender Kumar went to his village on 1.1.2017 for recording his statement but he refused to sign on the statement given by him. Due to which SI Jitender Kumar entered Rapat No.28 in Roznamcha on 1.7.2017. In view of result of the MLR and opinion of Doctor offence u/S 323 IPC is made out. On going dispute of above mentioned parties regarding land and division of

water tubewell. Malkiat Singh filed one complaint No.272 HRC dated 12.10.2017 before the Human Rights Commission against : 1. Lakhwinder Singh son of Puran Singh, r/o Narangpur, Police Station Mehatpur, District Jalandhar Rural, 2. Balkar Singh son of Puran Singh r/o Narangpur, Police Station Mehatpur, District Jalandhar Rural, 3. Kulwinder Singh son of Balkar Singh r/o Narangpur, Police Station Mehatpur, District Jalandhar Rural, regarding beatings and dispute of lands and also filed one more complaint to SDM Shahkot bearing No.224-5D dated 17.7.2017. Dispute of land is going on from a long time between both the parties. Due to which fight can arose between the parties at any time and serious offence might be occurred. They are bound under Sections 107/150 Cr.P.C. Calandra will be filed lateron. Rapat may kindly entered in Roznamcha.

*Another document Annexure P-4 is to the following effect:
It is stated that the brief facts of the calandra is like this that on dated 27.6.2017 one MLR No.NS/60/2017 was registered on the statement of Jagdish Singh son of Malkiat Singh r/o Narangpur, P.S. Mehatpur regarding the dispute and went home. Regarding which SI Jitender Kumar went to his village on 1.1.2017 for recording his statement but he refused to sign on the statement given by him. Due to which SI Jitender Kumar entered Rapat No.28 in Roznamcha on*

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The copies of representations submitted by petitioner No.1 to the police officers against respondents No.2, 3 and others are also

there on the file that means dispute is there between the parties regarding the landed property and it cannot be said that security proceedings have been initiated in the matter without any rhyme or reason.

Learned counsel for the petitioners has referred to authority **Pardeep Singh Versus State of Punjab, 2003(2) R.C.R.(Criminal) 688** by a Co-ordinate Bench, wherein while dealing with case under Sections 111, 107, 151 Cr.P.C., it was observed that when the order passed by Magistrate did not show that Magistrate satisfied himself that there was threat or breach of peace and which could not be prevented without immediate arrest of the person that order was passed without application of mind. Since the order was cryptic, it was set aside. He has referred to another judgment by a Co-ordinate Bench i.e. **Labh Singh and others Versus Hari Singh and another, 2012(6) R.C.R.(Criminal)1629** in that regard.

However, I find little merit in the contentions raised by learned counsel for the petitioners. A perusal of Annexure P-4 placed on record by petitioners themselves goes to show that it is mentioned therein that dispute of land is going on from a long time between both the parties, due to which a fight can arise between both the parties at any time, resulting in commission of serious offence. So the parties may be bound under Sections 107/150 Cr.P.C. Action under Sections 107/150 Cr.P.C. is in the form of security proceedings only and it is subjective satisfaction of the police officer and the Executive Magistrate as to whether there is apprehension of breach of peace and commission of any offence. Thus, no ground is made out to quash the calandra.

The petition being without merit stands dismissed accordingly.

17.1.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No