

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

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2018.05.16 17:49
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CRM-M-25156 of 2017

Date of Decision: 11.05.2018

Dilbagh Singh and others

...Petitioners

V/S

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. H.S.Randhawa, Advocate, for the petitioners.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

ARVIND SINGH SANGWAN,J. (Oral):

Prayer in this petition is for quashing of order dated 07.04.2016 passed by the trial Court vide which the cancellation report submitted by the police in FIR no. 120 dated 02.09.2015 under Sections 434/34 IPC and Section 13-A of the Punjab Village Common Land Regulation Act, 1961 registered at Police Station Raja Sansi, District Amritsar was declined as well as the order dated 21.03.2017 (Annexure P5) passed by the Revisional Court vide which the revision filed by the petitioner was dismissed.

Brief facts of the case are that Mela Singh, Block Development & Panchayat Officer, has got the FIR registered against the petitioners with the allegations that they are in illegal possession of Gram Panchayat land. Later on, during investigation, it was observed that the possession of the land has been handed over to Gram Panchayat, on the basis of representation given by the BDPO, the police submitted the cancellation report (Annexure P2).

The learned trial Court vide impugned order dated 07.04.2016, has declined to accept the cancellation report on the ground that the offence under Section 434 IPC is non-compoundable and, therefore, the cancellation report cannot be accepted.

The petitioners filed the revision and the same was dismissed vide impugned order dated 21.03.2017 with the similar observations as made by the trial Court.

The petitioners has filed the present petition challenging the aforesaid two orders.

Reply by way of affidavit of DSP, Sub-Division, Ajnala, Amritsar- Rural on behalf of the State has already been filed and as per this reply, it is stated that during investigation the actual victim and the complainant of the FIR are satisfied and they do not intend to proceed further with the investigation of the present FIR, hence, they will not support the prosecution version and if challan is presented in the Court, it will amounts to wastage of precious time of the Court and thus the State counsel has not opposed the prayer made in the present petition.

After hearing learned counsel for the parties, I find merit in the present petition.

The FIR has been registered only on the premise that the BDPO has given a complaint to the police that the petitioners were in illegal possession of the Panchyat land, however, later on it is found that possession of the land was already handed over to the Gram Panchayat and, therefore, the police has submitted the cancellation report. The only reason given by both the Courts below while passing the impugned orders is that since Section 434 IPC is non-compoundable, the cancellation report cannot be accepted and is not sustainable.

In view of the above, the present petition is allowed. The impugned orders dated 07.04.2016 and 21.03.2017 are set aside and the cancellation report (Annexure P2) is accepted. The trial Court will pass an appropriate order consigning the file to the record room.

11.05.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No.

Whether Reportable : Yes/No