

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

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**CRM-M-33328 of 2018 (O&M)
Date of Decision: 03.12.2018**

Chander Kant Jain and others	Petitioners.
Versus	
State of Punjab and another	Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Snehbaz Thind, Advocate for the petitioners.

Mr. Ashok Kumar Singla, Sr. Deputy Advocate General,
Punjab.

Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocated for respondent No.2.

Shekher Dhawan, J.

Present petition is for quashing of impugned order dated 21.07.2018 passed in First Information Report No.48 dated 21.05.2012 under Sections 395, 452, 427, 148 and 149 of IPC and Section 25 of the Arms Act (wherein Kelendra has been filed by the police only under Section 427 IPC) registered at Police Station Division No.8 (Kailash Chowk), District Ludhiana along with Criminal Complaint Case No.94 dated 24.09.2012.

Learned Senior counsel for the petitioners contended that the petitioners herein have purchased the suit property on the basis of registered sale deed dated 09.01.1996 and their possession and ownership rights were challenged by respondent No.2. Civil suit for permanent injunction in the Court of competent jurisdiction was filed on 29.08.2011. The said suit for injunction was decreed on 25.08.2017 and thereafter, the mater is pending in appeal.

Learned senior counsel for the petitioners further contended that the matter is now pending before the learned trial Judge on the point of framing of charge and learned trial Judge be directed to consider the plea being raised herein by the petitioners regarding the judgment and decree passed by the Civil Court in civil suit so as to consider the factum of possession and desirability of framing of charge by taking into consideration the factum of possession and the offence committed, if any, by the petitioners.

Learned State counsel as well as learned senior counsel representing respondent No.2 have contested the matter on the ground that the decree passed in the civil suit has not attained the finality as the matter is pending before the appellate Court and that aspect cannot be looked into at the time of framing of charge.

Taking into consideration all the facts and in view of the fact that the matter is pending before the learned trial Judge for framing of charge, the present petition is disposed of with direction that the petitioners shall be at liberty to raise all the pleas, which have been taken in the present petition and before this Court, before learned trial Judge at the time of framing of charge and the learned trial Court shall consider the same at the time of framing charge, if any, against the accused persons.

(SHEKHER DHAWAN)
JUDGE

03.12.2018

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No