

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-34806 of 2015 (O&M)
Date of decision: 18.08.2018

Dev Singh

.. Petitioner

Versus

State of Punjab and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. G.S. Sandhu, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

Mr. K.K. Garg, Advocate
for respondent no. 2.

SURINDER GUPTA, J.

CRM-38191-2017

Application is allowed and reply filed by respondent no. 2 is taken on record as Annexure R-2/1.

CRM-M-34806-2015

The petitioner has filed this petition under Section 482 Code of Criminal Procedure (for short, 'Cr.P.C.') seeking quashing of FIR No. 64 dated 03.07.2015 (Annexure P-1), registered for offences punishable under Sections 447/427/511/148/149 of Indian Penal Code (for short 'IPC') at Police Station Dhanaula, District Barnala, along with all consequential proceedings arising therefrom.

Above FIR was registered on the statement of respondent no. 2- Sarabjit Kaur (complainant), wherein she has stated that petitioner alongwith other accused trespassed her 5 *kanals* fields having paddy crop on 02.07.2015 and ploughed the same.

Learned counsel for the petitioner has drawn my attention towards judgment (Annexure P-7) passed by Additional Civil Judge (Sr. Division) Barnala whereby suit filed by petitioner seeking relief of permanent injunction was decreed and defendants in that suit were restrained from interfering in possession of petitioner over the suit land measuring 19 *kanals* 17 *marlas*, comprising in *khewat* no. 2512, *khatauni* no. 4257, *hasra* no. 374//8 (8-0), 9 (8-0) 11/1/2 (1-8), 14/2 (2-9) situated in the area of village Dhanaula.

Learned counsel for the petitioner submits that once possession of petitioner over the suit land has been upheld by civil court, plea of respondent no. 2 that she is in possession of the same and was dispossessed, is without any basis.

Admittedly, appeal against judgment passed by Additional Civil Judge (Sr. Division), Barnala (Annexure P-7) is pending. In the civil suit petitioner had appeared as PW-1 and had admitted that defendant (complainant included) had taken forcible possession of suit land from him, which was ploughed by him at later stage and police registered the FIR against him.

Learned counsel for the petitioner, when confronted with above statement, could not explain the same. So far as civil litigation between parties is concerned, matter is still *sub judice*. Admission by petitioner makes out *prima facie* case that he alongwith co-accused had trespassed over the land in possession of respondent no. 2 and cultivated her standing crop. At this stage, no reason is made out to arrive the conclusion that registration of FIR against the petitioner is misuse of process of Court.

Consequently, the instant petition has no merit and the same is dismissed.

It is, however, made clear that nothing observed herein shall have any bearing at the time of disposal of case on merit or shall be taken as expression of opinion on merit on any point in issue.

August 18, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No