

revenue officials and one Naranjan Mohan Singh, big landlord, who was having evil eye on the land in dispute. There was a dispute going on between the family members of the petitioner and the Gram Panchayat of the village regarding ownership of land in possession of the petitioners and their forefathers since 1945-46. A petition under Section 11 of the Punjab Village Common Lands (Regulation) Act (for short 'the Act') was filed against the Gram Panchayat which was dismissed by the Courts in hierarchy i.e. upto the High Court vide order dated 30.05.2011 passed in CWP No.16375 of 2010. LPA No.1044 of 2011 was filed which was dismissed as withdrawn on 19.07.2011 with a liberty to file review application before the learned Single Bench. Review application No.RA-CW No.282 of 2011 was filed. However, in the meanwhile the Gram Panchayat succeeded in their petition under Section 7 of the Act for eviction of the petitioners from the land in question. The appeal filed against the said order was also dismissed by the Appellate Authority on 08.07.2011.

[3]. The petitioners filed CWP No.13372 of 2011 against the order dated 08.07.2011. The said petition was disposed with a direction to the Registry of this Court to list the review application i.e. RA-CW No.282 of 2011 filed in CWP No.16375 of 2010 before the learned Single Judge at the earliest. Learned

counsel appearing on behalf of the Gram Panchayat/Caveator gave an undertaking that till then no coercive steps would be taken for the eviction of the petitioners and their family members from the land in question. It was also held that in case petitioners succeed in review application and the petition under Section 11 of the Act is decreed, the eviction order passed against them would automatically become redundant.

[4]. The said review application was dismissed by the learned Single Judge on 01.08.2011. The Sarpanch of the Gram Panchayat under the influence of local politicians even in the absence of certified copy of the order tried to take forcible possession of the land in question. Gram Panchayat had filed a caveat petition in LPA to be filed by the petitioners and their family members against the order dated 30.05.2011 passed in CWP No.16375 of 2010 as well as the order dated 01.08.2011 passed in review application.

[5]. An effort was made to dispossess the petitioners and their family members on 08.08.2011. In the evening of 08.08.2011, the petitioners were informed by some of their relatives that FIR was registered against them for obstructing the government officials from performing their duty. FIR No.69 dated 08.08.2011 under Sections 307, 323, 353, 186, 148, 149 IPC, P.S. Nurpur Bedi, District Roopnagar was registered. LPA

No.1519 of 2011 was heard before the Hon'ble Division Bench of the High Court on 26.08.2011 and order of *status quo* was passed while issuing notice of motion. The said order was passed in the presence of learned counsel for the Gram Panchayat, who was on caveat. The Gram Panchayat in utter disregard to the interim order passed vide the aforesaid order in LPA, auctioned the land in dispute on 05.09.2011, but the possession of the land remained with the petitioners. COCP No.2233 of 2011 was filed by the side of the petitioners and the same was ordered to be listed along with the LPA No.1519 of 2011.

[6]. Challan was presented and thereafter charges were framed vide order dated 29.05.2012 vide which petitioner were charged for the offences under Section 148 IPC and Sections 307, 332, 353, 186 read with Section 149 IPC.

[7]. The aforesaid order was challenged by the petitioners in CRR No.1963 of 2012 titled 'Karam Chand and others vs. State of Punjab and another' and CRR No.2319 of 2012 titled 'Jaswant Singh and others vs. State of Punjab and another.' After notice to the respondents, the High Court was pleased to quash the order framing charges against the petitioners and remanded the case back to the trial Court for re-hearing of the petitioners by passing a fresh order on charge. Operative part of

the order dated 24.01.2013 passed by the High Court reads as under:-

“As per the counsel for the petitioners, all the petitioners have been charged for an offence under Section 307 IPC and it is only because of influence of political bigwig that this has happened and this FIR has been so lodged by the police to pressurize the petitioners to leave the possession of the land in their possession. To show that no offence as alleged is made out against the petitioners but still the charges have been framed, the counsel would accordingly contend that Court did not consider any of the submissions made by the petitioners while framing the charges. It is averred in the petition, which is not much disputed by the State counsel, that except for charges as framed, there is no order passed by the Trial Court to give reasons as to why the offences as alleged are made out against the petitioners.

Counsel for the petitioners contends that detailed submissions were made at the time of framing of the charges that no offence as alleged was made out against the petitioners. Since the Trial Court has not given any reason, this Court is in no position to understand as to how offence under Section 307 IPC or for that matter offences under other sections are made out. There is nothing on record to show as to what has weighed with the Court to frame the charges as alleged. It would, therefore, be appropriate to remand this case back to the Addl. Sessions Judge to rehear the petitioners for passing a reasoned order as to how such charges are made out against the petitioners. The charges as framed, however, are quashed. The Trial Court would be at liberty to frame the fresh

charges, if any offence is made out, from the facts as alleged but strictly in accordance with law.”

[8]. Thereafter the trial Court passed the order dated 01.01.2014 chargesheeting the petitioners for the offences under Section 148 and Sections 307, 332, 353, 186 read with Section 149 IPC, but in the order of charge following order as passed by the trial Court:-

“Heard. From the perusal of the report U/S 173 Cr.P.C., statement of witnesses and other documents on record. Prima facie case is made out against the accused persons for the offences punishable under Sections 364, 323, 382, 342, 347, 506, 148, 149, 120-B IPC as detailed expression of opinion is not required at this stage and let the charge/or these offences be served upon the accused persons. At this stage, charge has been framed against the accused persons, to which they plead not guilty and claim trial. Now PWs be summoned for 04.02.2014.”

*Sd/- (Harish Anand)
ASJ/(FTC)/Ropar”*

[9]. Apparently, there was no references to the offences for which the petitioners were chargesheeted vide order dated 10.01.2014. The orders for framing charge and the chargesheet were conflicting in terms of the offences for which order of charge as well as chargesheet was passed. That is how the present petition was filed assailing the aforesaid order.

[10]. At the time of issuance of notice of motion on 07.02.2014, following order was passed by the Co-ordinate Bench of this Court:-

“Learned counsel for the petitioners submits that though the trial Court vide order dated 10.1.2014 directed framing of charges against the petitioners for the offences under Sections 364, 323, 382, 342, 347, 506, 148, 149 and 120-B IPC but then proceeded to frame charges, not for the aforementioned offences, but for the offences punishable under Sections 186/353/323/307/149 and 148 IPC.

Notice of motion to Advocate General, Punjab and respondent No.2 for 21.3.2014.

In the meantime, further proceedings before the trial Court shall remain stayed.

Let the comments of the trial Court be obtained in respect to the aforementioned contradiction between the order directing framing of charges and the charge-sheet.”

[11]. The comments of the trial Court were sought to be obtained in respect of aforesaid contradiction between the order framing charge and the chargesheet. The explanation was given by the trial Court and trial Court was cautioned to remain careful in future while passing/signing the interim orders. Interim order was made to continue vide order dated 21.03.2014. Vide order dated 30.06.2014 interim order was vacated and the trial Court was directed to proceed further for amending the charge-sheet as per its order.

[12]. Thereafter charges were amended and CRM No.37200 of 2014 and CRM No.37356 of 2014 were filed for stay of further proceedings before the trial Court and for placing on record the order dated 12.08.2014 vide which charge was modified and chargesheet was issued accordingly. Grounds of the petition were also amended assailing the order dated 12.08.2014 vide which charge was amended. Notice of the applications was issued and the trial Court was directed to adjourn the case beyond the date fixed vide order dated 05.12.2014. In another application i.e. CRM No.5565 of 2017, the documents were taken on record vide order dated 20.02.2017.

[13]. Learned Senior counsel for the petitioners submitted that vide order dated 24.01.2013 passed in CRR No.1963 of 2012 titled '*Karam Chand and others vs. State of Punjab and another*' and CRR No.2319 of 2012 titled '*Jaswant Singh and others vs. State of Punjab and another*' the Co-ordinate Bench of this Court was pleased to set aside the charges on the premise that the trial Court had not given any reason as to how the offences were made out *qua* Section 307 IPC etc. The Court also observed that there was nothing on record to show as to what had weighed with the Court to frame charges as alleged. The case was remanded to the trial Court for passing a reasoned order stating as to how such charges can be framed

against the petitioners. Thereafter the petitioners were chargesheeted vide the impugned order dated 10.01.2014.

[14]. Learned Senior counsel submitted that the chargesheet was not in consonance with the order of charge passed on 10.01.2014. Apparently, the order of charge and other offences were not touched upon for which the petitioners were chargesheeted. That is how this Court intervened at the time of issuance of notice of motion on 07.02.2014, when interim stay was passed and comments of the trial Court were sought to be obtained. Even if the comments were found to be satisfactory, the trial Court was required to comply with the order dated 24.01.2013 passed by the High Court in CRR Nos.1963 and 2319 of 2012 to pass reasoned order in the context of order framing charge. Thereafter order dated 12.08.2014 was passed. Now at this stage it is to be seen whether the order dated 12.08.2014 is in consonance with the requirement of the aforesaid order dated 24.01.2013.

[15]. Learned Senior counsel by referring to additional documents placed on record (Annexures P-10 and P-11) submitted that the FIR No.93 dated 31.10.2011 under Sections 379, 447, 511 IPC, Police Station Nurpur Bedi, Ropar and FIR No.80 dated 16.09.2011 under Sections 13-A of the Punjab Village Common Lands (Regulation) Act, 1961, Police Station

Nurpur Bedi, Ropar were registered against the petitioners and their family members in which petitioners have been acquitted. The allegations of criminal trespass and theft of paddy crop allegedly sown by the complainant party were disbelieved by the competent Court and the possession of the petitioners was treated to be in existence over the suit property in the light of order of *status quo* passed by the High Court.

[16]. I have considered the submissions made by learned counsel for the parties.

[17]. Perusal of the order dated 12.08.2014 would show that the trial Court instead of complying with the order dated 24.01.2013 passed by the Co-ordinate Bench of this Court in CRR Nos.1963 and 2319 of 2012 for giving *prima facie* reasons chargesheeting the petitioner, gave the reason that only *prima facie case* is to be seen without making any opinion. The trial Court has not referred to the requirement of the aforesaid order dated 24.01.2013 passed on earlier occasion. Only incriminating fact was recorded that Manjit Kaur and Dalip Kaur while standing on the other side of the bank of the canal along with ten unidentified persons also attacked them. Sohan Singh hurled a bottle filled with petrol after setting it on fire on the boat of the complainant. No such bottle has been recovered and the Court has not given any *prima facie* observations with regard to

the alleged injuries on the side of the complainant except to say that no meticulous opinion can be formed at this stage. It is true that at the time of framing of charges, meticulous examination of the allegations and counter allegations is not permissible, but the Court is required to observe the *prima facie* view of the matter so as to attract the offences in question. Precisely the order dated 24.01.2013 was in the aforesaid context obligating the trial Court to at least weigh the allegations on *prima facie* note for framing charges against the petitioners and the case was remanded. Perusal of the order dated 12.08.2014 would show that the same is not in consonance with the order dated 24.01.2013 passed on earlier occasion by the Co-ordinate Bench of this Court.

[18.]. In view of aforesaid, I am of the view that the order framing charge needs to be revisited by the trial Court in view of order dated 24.01.2013 passed in CRR Nos.1963 and 2319 of 2012. Consequently, the order dated 12.08.2014 passed by the Addl. Sessions Judge, Fast Track Court, Ropar is quashed. Petition is allowed and the trial Court is directed to pass a fresh order in accordance with law.

January 16, 2018

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No