

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12202 of 2016

DATE OF DECISION: MAY 6, 2019

MAMTA MASIH

...PETITIONER

VERSUS

STATE OF PUNJAB & ANOTHER

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. DEEPANJAY SHARMA, ADVOCATE FOR THE PETITIONER.
MR. HARSIMAR SINGH SITTA, AAG, PUNJAB.
MR. A.S. BARNALA, ADVOCATE FOR RESPONDENT NO.2.

MANOJ BAJAJ, J.(ORAL)

Petitioner Mamta Masih has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.07 dated 25.4.2015 registered under Sections 420 and 448 IPC, Police Station N.R.I., SAS Nagar (Annexure P-1) as well as the final report under Section 173 Cr.P.C. (Annexure P-2) and the order dated 31.08.2015 (Annexure P-3) framing charges against her.

The FIR was recorded on the basis of a complaint given by Chattar Singh (respondent No.2) wherein it was alleged that one flat bearing No.4-A, Ground Floor, Arman Apartment in Dashmesh Colony, Zirakpur was rented out to Mamta Masih, in October 2013 and for the last six months she had neither paid any rent nor vacated the same. The tenant even did not pay the electricity charges. It was prayed that the flat in question be restored back to the owner Chattar Singh.

The complaint was sent for enquiry and the same was looked into by the office of Inspector General of Police, N.R.I. and Women Wing

Phase-I, Mohali. After conclusion of the enquiry, it was recommended that FIR be registered under Sections 420 and 448 IPC against Mamta Masih for illegally occupying the property of the NRI, and thereupon impugned FIR was registered.

Thereafter investigation was carried out and final report was filed under Section 173 Cr.P.C. before the Court, followed by framing of charges.

Learned counsel for the petitioner contends that a bare reading of the FIR would reveal that it was a dispute between the landlord and the tenant and the complaint does not disclose commission of any cognizable offence. The prayer made in the impugned FIR was alternatively maintainable in the Civil Law, i.e. by way of ejectment petition before the competent Authority under the Rent Laws.

Upon notice of the petition, reply was filed by the State justifying the stand of registration of the FIR as well as filing of the final report. However, no reply has been filed by the private respondent No.2 who is represented by his counsel.

At this stage, learned counsel for the petitioner has further apprised the Court that the petitioner-tenant has already vacated the flat in question and the possession of the same has been restored to the complainant. It is also pointed out that the proceedings before the Rent Controller, Derabassi attained finality and the order passed by it has been executed and the possession of the Flat stands delivered over to respondent No.2.

This fact is not disputed by learned counsel appearing for respondent No.2-complainant. It is further stated by the learned counsel that his client has no objection in case the impugned FIR is quashed as the grievance of the petitioner stands redressed.

Considering the above, this Court is of the opinion that registration of FIR itself was not justified, particularly when a bare reading of the allegations did not constitute any offence much less punishable under Section 420 and 448 IPC. The prayer made in the FIR itself was for restoration and possession of the property and for that the appropriate remedy under the Civil Law was availed successfully. As the parties are satisfied and the complainant has expressed his willingness not to pursue the present case, it will not be useful to continue with the prosecution pursuant to the impugned FIR.

In view of the above, the present petition succeeds and FIR No.07 dated 25.4.2015 registered under Sections 420 and 448 IPC, Police Station N.R.I., SAS Nagar (Annexure P-1) as well as the final report under Section 173 Cr.P.C. (Annexure P-2) and the order dated 31.08.2015 (Annexure P-3) framing charges against her and all the subsequent proceedings arising therefrom are ordered to be quashed.

May 6, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No