

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.18512-2016 (O&M)

Date of decision : 30.01.2019

Kanwaljeet Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.Satbir Rathore, Advocate for the petitioners
Ms.Sunint Kaur, AAG Punjab

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J.

Petitioners have filed the present petition under Section 482 Cr.P.C. for quashing the Criminal Complaint No.54 dated 5.11.2011 (Annexure P1) under Sections 406, 420, 447, 427, 120-B, 148, 149 IPC titled as Gurpal Singh vs. Kailash Verma and others pending in the Court of learned Judicial Magistrate First Class, Dasuya, District Hoshiarpur along with the summoning order dated 5.3.2016 (Annexure P2) and the consequential proceedings.

I have heard learned counsel for the parties and have also carefully gone through the file.

Quashing of the complaint and the summoning order has been sought on the ground that earlier on the same allegations, Bachan Singh alias Gurbachan Singh father of the complainant lodged FIR No.25 dated 23.2.2007 under Sections 406, 420, 447, 120-B IPC, PS Dasuya, District

Hoshiarpur. Petitioners, namely, Darshan Singh, Baljinder Singh, Kanwaljeet Singh and Kailash Verma were tried by the Court of learned Judicial Magistrate First Class, Dasuya. After the trial, vide judgment dated 10.4.2014 (Annexure P3), they were acquitted of the charges. After the registration of the case, Bachan Singh alias Gurbachan Singh died on 12.6.2007. His son Gurpal Singh filed present criminal complaint on 5.11.2011, on the basis of the same allegations, wherein addition to the present petitioner, allegations were also leveled against four other persons, Harjit Singh, Gurjit Singh sons of Darshan Singh, Kuldip Singh son of Kapoor Singh and Amandeep Singh son of Kuldip Singh.

Learned counsel for the petitioners has contended that it amounts to double jeopardy and they are protected under Article 20 of the Constitution of India. Learned counsel for the petitioners has taken this Court through the allegations leveled in FIR case, wherein Bachan Singh alias Gurbachan Singh, father of the complainant had stated that he has entered into agreement to sell dated 15.6.2005 with Darshan Singh and Kanwaljeet Singh, vide which, both of them agreed to sell land measuring 145 kanals 5 marlas and received Rs.10 lakhs as earnest money. They again received Rs.80,000/-. They also agreed to sell land of Surjit Singh, Harjit Singh, Makhan Singh and Dalip Singh. Harjit Singh and his brother have been made accused in the present complaint case. It was stated that after the agreement, Darshan Singh and Kanwaljeet Singh sold 114 kanals land to them, whereas remaining land was not sold despite repeated requests and that on 7.11.2006, accused along with other persons tried to take forcible possession of the land.

Perusal of the complaint shows that in the complaint, it was

stated that Darshan Singh was head of the family. He agreed to sell land on behalf of Gurjit Singh, Harjit Singh son of Darshan Singh and Kanwaljeet Singh son of Darshan Singh himself executed agreement dated 15.6.2005 to sell regarding land 145 kanals 5 marlas. A sum of Rs.80,000/- was paid of standing crop at the time of execution of the agreement to sell, while taking possession of the entire land. It is further stated in the complaint that out of 145 kanals 5 marlas land, land measuring 117 kanals has been sold in favour of the complainant and his brother Joginder Singh and father Bachan Singh and sale deeds dated 27.10.2005, 1.3.2006, 27.9.2006 and 21.8.2006 were executed.

After going through the contents of the complaint and FIR, I am of the view that the petitioners have already been tried and after full fledged trial, spreading over little less than seven years, they were acquitted of the charges framed against them. Therefore, on the basis of the same allegations, they cannot be tried again, as the same is hit by the Article 20 of the Constitution of India being double jeopardy.

As such, Criminal Complaint No.54 dated 5.11.2011 (Annexure P1) under Sections 406, 420, 447, 427, 120-B, 148, 149 IPC titled as Gurpal Singh vs. Kailash Verma and others pending in the Court of learned Judicial Magistrate First Class, Dasuya, District Hoshiarpur along with the summoning order dated 5.3.2016 (Annexure P2) and the consequential proceedings stand quashed.

Petition is accordingly allowed.

30.01.2019

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No