

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.261

CRM-M-19299-2016 (O&M)
Date of decision : 19.3.2019

Smt. Ravinder Kaur and another

..... Petitioners

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Pawan Kumar, Sr. Advocate with
Mr. Rozer Kumar Aggarwal, Advocate, for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab

Ms. Aashma Gill, Advocate and
Mr. HS Dhindsa, Advocate, for respondent No.9

SUDHIR MITTAL, J. (Oral)

The petitioners are aggrieved because FIR No.64 dated 22.5.2016 (Annexure P7), has been registered at Police Station Doghri, District Ludhiana, against them under Sections 380, 448, 511, 149 IPC and they pray for quashing of the said FIR and for other connected reliefs.

Pursuant to issuance of notice of motion, reply has been filed on behalf of respondents No.1 to 3. The petitioners though CRM-37-2019 have placed on record an additional affidavit of petitioner No.2.

Learned senior counsel for the petitioners submits that a complaint dated 21.5.2016 (Annexure P4), was submitted to respondent No.4 regarding persons constituting a firm, namely, Gill Brothers, having trespassed into their shops and carrying out alternations therein. On being confronted, they threatened the petitioners. The receipt of the said complaint on 21.5.2016, is evidenced by a message (Annexure P6), received on the mobile phone. The police officials i.e. respondents No.5 to 7, came on the

spot on receipt of the complaint as is evident from photographs (Annexure P5). Yet, no FIR was registered against the persons named as accused in complaint (Annexure P4). On the contrary, FIR No.64 dated 22.5.2016 (Annexure P7), was registered against a large number of persons including petitioner No.2, under Sections 380, 448, 511, 149 IPC. In the reply submitted on behalf of the State of Punjab, it has been accepted that the said FIR is based on false allegations and thus, a cancellation report has been presented. This is evidence of the fact that the police officials arrayed as respondents No.5 to 7, have colluded with the accused persons mentioned in the complaint (Annexure P4) and thus, appropriate departmental action should be taken against them. Further, an FIR should be registered against the persons named in the complaint (Annexure P4) .

Learned State counsel submits that since, a cancellation report has been submitted, the petition regarding relief of quashing of FIR No.64 dated 22.5.2016 (Annexure P7) has been rendered infructuous. It is, further, stated that respondents No.5 and 6 went to the spot on receipt of complaint resulting in registration of aforementioned FIR (Annexure P7). It was found that the shops in dispute were in possession of the complainants of the said FIR. Although, the petitioners stated that the said persons are in unauthorized possession, they could not prove the same. On the other hand, the complainants of aforementioned FIR (Annexure P7) were able to show an excise licence in their favour issued on the shop in dispute alongwith Form TS-1. For this reason, an FIR No.64 dated 22.5.2016 (Annexure P7), was registered against petitioner No.2 and others. The complaint (Annexure P4), although dated 21.5.2016, was received in the police station on 29.5.2016 as is evident from endorsement thereupon. This

submission has been made upon inspection of the police record, which is available with the Investigating Officer i.e. ASI-Gurmail Singh. Thus, there was no fault of the police officials. After investigation, the allegations made in FIR (Annexure P7) have been found to be false and accordingly, a cancellation report has been submitted. Under the circumstances, the additional directions prayed for by the petitioners may not be issued.

From the complaint (Annexure P4), it becomes evident that father of petitioner No.2 had rented out the said shops to one Kulwant Singh, who did not renew rent agreement, but illegally sublet the shops to a firm, namely, Gill Brothers. Thus, the possession of the complainants of FIR (Annexure P7) has been admitted. Under the circumstances, the allegations of criminal trespass etc. levelled against the complainants of FIR (Annexure P7), cannot be accepted. The police investigation has also revealed that the said complainants are in possession but without existence of any rent deed/lease deed. It has also been found that the allegations of theft and criminal trespass levelled against the petitioners and others are false and motivated and therefore, a cancellation report has been submitted. In view of the fact that the complaint (Annexure P4), was received on 29.5.2016 and by then, FIR (Annexure P7), had already been registered, the allegations of wrong doing against respondents No.5 to 7, cannot be accepted.

Thus, so far as relief of quashing of FIR No.64 dated 22.5.2016 (Annexure P7) is concerned, the petition is disposed of as having been rendered infructuous, in view of cancellation report. So far as, the other prayers are concerned, there is no justification for granting the same and with regard to them, the petition is dismissed. The petitioners shall be at

liberty to seek possession of their shops, in accordance with law. They shall also be at liberty to file a private complaint.

(SUDHIR MITTAL)
JUDGE

19.3.2019
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No