

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21240-2018 (O&M)
DECIDED ON: 02.04.2019

CHARAT SINGH

...PETITIONER..

VERSUS

BALBIR SINGH AND ANR.

...RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. R.S. Bains, Advocate,
for the petitioner.

Mr. Gulzar Mohd., Advocate,
for respondent No.1.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., respondent-accused No.1 has sought quashing of complaint No.192 of 2015 dated 28.05.2015, under Sections 420, 467, 468, 471 and 120-B IPC (P-1), summoning order dated 31.03.2018 (P-2) and all consequential proceedings arising out of the same.

Briefly, respondent No.1 purchased land measuring 1 kanal 10 marlas situated in village Ghumiara, Tehsil and District Jalandhar vide registered sale deed No.109 dated 29.12.2004, mutation No.680 qua aforesaid sale deed in favour of respondent No.1 was entered and sanctioned on 08.05.2005.

Prior to that, on 24.01.2005, petitioner moved an application to the revenue authorities for correction of khasra girdwari in his

favour, claiming his possession over the aforesaid land purchased by respondent No.1. Whereupon, revenue authority inspected the spot on 25.05.2005 and changed khasra girdawari entries showing illegal possession of the petitioner vide order dated (Annexure P-5/T).

Being aggrieved, respondent No.1 approached the appellate court, but remained unsuccessful as his appeal was dismissed vide order dated 07.06.2006 (Annexure P-6/T).

The things did not rest here, respondent No.1 further approached the Commissioner, Jalandhar Division, Jalandhar by way of revision, but that too, was dismissed vide order dated 26.12.2006 (P-7).

Still dissatisfied, respondent No.1, approached the Financial Commissioner (Revenue) Punjab, Chandigarh, who too, dismissed the petition of respondent No.1 vide order dated 12.03.2010 (P-8/T), upholding the illegal possession of the petitioner. Therefore, the revenue authorities throughout held the illegal possession of the petitioner over the land in dispute.

Consequently, respondent No.1 filed a civil suit for injunction against the petitioner before the Civil Court at Jalandhar, in which, respondent No.1 moved an application under Section 39 Rule 2-A of CPC, which after framing issues, and taking evidence from both the sides, was dismissed vide order dated 06.05.2013 (P-9). On the same date, suit for permanent injunction filed by respondent No.1 against the petitioner, restraining him from interfering into his alleged peaceful

possession over the land in dispute was also dismissed vide judgment (Annexure P-10).

Thereafter, respondent No.1 filed a suit for possession against the petitioner, but remained unsuccessful as the same was also dismissed on 30.01.2017 vide judgment (P-11) on the ground of maintainability.

Simultaneously, respondent No.1 lodged FIR No.96 dated 17.09.2005, under Sections 420, 465, 471 and 120-B IPC at Police Station Kartarpur and another FIR No.1 dated 03.01.2006, under Section 447, 511, 427, 34 IPC against the petitioner. However, in both the aforesaid FIRs, petitioner was acquitted vide judgment dated 13.12.2010 (P-12) and 13.12.2010 (P-14). Respondent No.1, even at that stage, did not stop and filed appeal against both the judgments, which too was dismissed vide judgments dated 11.03.2014 (P-13 and P-15).

In the meantime, in the year 2012, respondent No.1 also filed a criminal complaint against the petitioner for defamation, in which, the petitioner was summoned vide order date 30.04.2012.

Being aggrieved, petitioner approached the revisional court to dismiss the complaint of respondent No.1, which was allowed vide order dated 03.01.2015 (P-16).

Respondent No.1 also approached this Court vide CRM-M-13641-2013 (P-17) directing the police authority to register a criminal

case against the petitioner, but after filing reply by the petitioner, the same was dismissed as withdrawn vide order dated 01.08.2013.

After losing battle throughout on civil and criminal side both, respondent No.1 filed impugned complaint dated 28.05.2015 (P-1) on the similar set of allegations, which he, repeatedly took throughout in his civil and criminal litigation, wherein the petitioner was summoned vide impugned order dated 31.03.2018 (P-2).

Learned counsel for the petitioner contends that the impugned complaint (P-1) and summoning order (P-2) are gross abuse of the process of law and hit by "doctrine of double jeopardy". The petitioner cannot be vexed several times for the same set of allegations, on which, respondent No.1 has already been non-suited on civil and criminal side both.

On the other hand, learned counsel for respondent No.1 refuting the above submissions, and pleading the legality of impugned summoning order, contends that the impugned complaint (P-1) is based on different facts, not akin to the earlier suits or FIRs against the petitioner, when it came to the notice of respondent No.1 that agreement of lease deed, on the basis of which, petitioner was claiming his possession over the land in dispute purchased by him, was not thumb marked by his vendor Rajinder Singh, rather alleged thumb impression was a forged and fabricated one. Therefore, cause of action to respondent No.1 for filing the impugned complaint is altogether

different from earlier ones. In support of his contention, he placed reliance upon the judgment of Hon'ble the Supreme Court, titled as ***"Mahesh Chand vs. B. Janardhan Reddy and anr."***, 2003(1) RCR (Criminal) 420.

Having given thoughtful consideration to the rival submission, this Court finds instant petition merits acceptance for the reasons to follow:-

In the earlier litigations on civil and criminal side, bone of contention between the parties was possession of the petitioner over the land purchased by respondent No.1 from Rajinder Singh, vide registered sale deed dated 29.12.2004. The petitioner has throughout been claiming his possession over the land in question on the basis of lease agreement (P-4) allegedly executed on 01.02.2004 by owner Rajender Singh i.e. much prior to sale deed executed by him in favour of respondent No.1. Contrary to it, the stand of respondent No.1 right from the very beginning was that the said agreement in favour of the petitioner was forged and fabricated one and thus, was a fraudulent document. Admittedly, this plea of respondent No.1 has been negated by both civil and criminal courts. Therefore, respondent No.1 cannot be permitted to re-agitate the falsity and forgery of lease agreement in favour of the petitioner on the ground that it was not thumb marked by his vendor Rajinder Singh, inasmuch as, this very ground was available to respondent No.1 right from the beginning ie. from the year 2005,

when, he lodged two FIRs against the petitioner raising the same grouse. Now, it would be very difficult for the trial court to effectively ascertain, as to whether the alleged thumb impressions are forged or genuine, on account of death of Rajinder Singh.

Be that as it may, the allegations against the petitioner in the impugned complaint (P-1) are almost similar to his allegations, which he, leveled against him while lodging two FIRs and also in civil suits, besides in CRM-M-13641-2013.

Since, no new fact has been brought in by respondent No.1-complainant in the impugned complaint (P-1) different from his earlier allegations, therefore, no benefit of ***Mahesh Chand's*** case (supra) can be given to him, being distinguishable on facts.

In view of the above, petition is accepted, impugned complaint (P-1) and summoning order dated 31.03.2018 (P-2) against the petitioner are quashed.

Petition stands disposed of.

02.04.2019

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**(RAMENDRA JAIN)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**