

118

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.1937 of 2019
Date of Decision: 20.03.2019**

DALJIT SINGH AND ANOTHER

.....Petitioners

Vs

SATINDER KUMAR @ SATWINDER KUMAR AND OTHERS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. M.S. Dhaliwal, Advocate
for the petitioners.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision petition has been preferred against the order dated 21.02.2019 passed by the Civil Judge (Jr. Divn.) Dhuri, vide which the application under Order 7 Rule 11 CPC filed by the petitioners was dismissed.

[2]. Bare perusal of the plaint would show that triable issues are involved in the present case. The story projected by the petitioners are dependent upon leading of evidence in the context of public duties which were allegedly performed by the defendants at the relevant time.

[3]. In compliance of Section 80 CPC, it has to be established on record that the defendants were acting in

consonance with their public duty. Only averments made in the plaint at the stage of Order 7 Rule 11 CPC are to be appreciated. The plea of mistaken identity would also require some evidence to be led at the appropriate stage.

[4]. Learned counsel for the petitioners sought to rely upon the report under Section 173 Cr.P.C. prepared in the criminal case. Even the said report is also subject to be proved in the civil case. Civil cases are to be decided on the basis of preponderance of probability. The entire thrust made by the petitioners appears to be on the basis of criminal case alleged against the occupant of first Figo car against whom FIR was got registered by the member of police party i.e. PHG Harbans Singh. Wrong identity of the occupant of second Figo car would give rise to a triable issue and that needs to be established with reference to leading of some evidence on record.

[5]. At this stage, learned counsel for the petitioners wishes to withdraw this revision petition.

[6]. Dismissed as withdrawn.

March 20, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No