

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

CRM No.M-30546 of 2016 (O&M)

Date of Decision: July 16, 2019

Sanjeev Chaudhary and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Preetinder Singh Ahluwalia, Advocate
for the petitioners.

Mr.Prabhjot Singh Walia, AAG, Punjab
for the respondent-State.

Mr.Rajinder Sharma, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Deepak Kumar for quashing of order dated 05.04.2016 passed by learned Judicial Magistrate Ist Class, Rajpura, whereby charges have been framed against the petitioners in case FIR No.272 dated 25.10.2012 under Sections 420, 465, 467, 468, 471 and 120-B IPC registered at Police Station City Rajpura, District Patiala and also order dated 03.08.2016 passed by learned Addl. Sessions Judge, Patiala, vide which, the revision petition filed by the petitioners was dismissed.

learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the FIR shows that it was registered on the basis of complaint sent by Deepak Kumar, Member, Public Welfare Society, Rajpura against Sanjiv Kumar, in which it is stated that accused got executed Registry by including government road and municipal committee place in a forged manner by cheating. It is submitted by the complainant side that they are residents of Rajpura and want to bring in the notice that Sanjiv Kumar and Mukesh Kumar have registry of shop measuring 11 yards but they have tampered with the Registry of 11 yards with their hands in a forged manner and have increased boundaries to 14 yards and have got executed Registry of 14 yards in the name of Kamini Devi wife of Sanjiv Kumar. They have included Government road/place of municipal committee in their Registry and in this act, his brother Jagdish Kumar has been made witness. The Registry was got executed on 17.02.2009. The aforesaid person used to run a medicine shop in the name of Parkash Medicos. That shop had been running from the last many years without licence and drugs and duplicate medicines were being sold in the garb of original medicines. It is also stated that Health Department raided and got closed this shop. Now, accused persons are again trying to obtain licence for the same shop and when they were unable to get licence due to insufficient space, then they tampered with the boundaries in the old Registry and changed 11 yards to 14 yards and got the Registry executed in the name of Kamini Devi.

the FIR is that accused has got registered sale deed in favour of his wife namely Kamini Devi by encroaching land of municipal committee/government land. There is no complaint by the Municipal Committee or government to show that land has been encroached upon. Secondly, the perusal of the FIR itself shows that no such demarcation was got conducted before the registration of the FIR by the complainant.

Learned counsel for the petitioners contended that earlier, brother of the complainant filed PIL before this Court, which was dismissed by this Court while passing the order against them. Now, complainant has got registered the FIR. Learned counsel for the petitioners also brought it to the notice of this Court that there are three medical shops in front of A.P. Jain, Civil Hospital, Rajpura. Two shops are owned by the complainant side and in between, the shop is of the petitioners. Just to put pressure upon the accused side, so that they may close the shop, this false FIR has been got registered.

The perusal of the record shows that Kamini Devi is not aggrieved party in whose favour the sale deed has been executed. Municipal Committee/Government is also not aggrieved party. There is nothing to show in the FIR that any demarcation was got conducted or land has been found to be encroached. Furthermore, the Hon'ble Division Bench of this Court, dismissed the PIL with costs filed by complainant side.

Learned counsel for the petitioners also brought it to the notice of this Court that petitioners have valid licence to sell medicines and false allegations have been levelled due to business rivalry as the complainant side has adjoining shops.

Even if it is taken that any land has been encroached, even then,

no offence is made out. The perusal of the sale deeds show that different boundaries have been given in both the sale deeds. There is nothing wrong if in the second sale deed executed in favour of Kamini Devi, the area has been given in square feet, which is shown to be 14 sq. yards. In no way, the petitioners have cheated nor there is any inducement nor there is any forgery.

From the perusal of the record, I find that the complaint has been filed due to business rivalry. The Municipal Committee or Government can file the proceedings for recovery of possession but as already argued, there is nothing to show any encroachment nor any notice was given for removing the encroachment.

In view of the above discussion, I find that impugned orders dated 05.04.2016 and 03.08.2016 passed by learned JMIC, Rajpura and learned Addl. Sessions Judge, Rajpura, respectively, are not as per law, illegal and the same are set aside, as no prima facie case is made out against the petitioners.

Finding merit in the present petition, the same is allowed accordingly.

As the main case is decided, therefore, criminal misc. application, if any, also stands disposed of.

July 16, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No