

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

**Crl. Misc. No. M-33045 of 2014 (O&M)
Date of Decision: July 16, 2019**

Sadrick Sohan Lal and others

.....PETITIONERS

VERSUS

State of Punjab and another

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. G.S.Bhatia, Advocate
for the petitioners.

Mr. Rakeshinder Singh Sidhu, A.A.G, Punjab.

Mr. B.S.Guliani, Advocate
for respondent No. 2.

SURINDER GUPTA, J.(Oral)

CRM-20410-2019

This is application to place on record the copy of challan as
Annexure P-21 and copy of legal opinion as Annexure P-22.

Application is allowed. Documents (Annexure P-21 and 22) are
taken on record subject to all just exceptions.

CRM-M-33045-2014

Heard.

On an application filed by Hans Raj Arlibhan before Sub
Divisional Judicial Magistrate, Batala, directions were issued to SHO Police
Station, City Batala to register the FIR and investigate the matter.

The allegations in the application were two folds; firstly that the accused had formed a bogus society to deprive the complainant society i.e. Amritsar Diocesan Trust Association, from its legal management of the property i.e college, Epiphency school, Church and shops etc.; the memorandum of Association of Society was amended against rules; secondly the accused have no right, title or interest in the property of ADTA but with the intention to grab the same, they forcibly and illegally entered in the servant quarter of Epiphany Church and have made Sh. Victor to occupy the same. They hatched a conspiracy by manipulating and forging and preparing false seals of the society to authenticate the illegal resolution and have been misrepresenting the people of their bona fide. They are adopting all illegal and unlawful methods against the lawful office bearers of the society and have trespassed in the Barring Union Christian College and Epiphency Church located near City Police Station Batala. The accused are illegally collecting and misappropriating the funds of the Barring Union Christian College, school, institution and Church, which is located near City Police Station Batala and threatening the shopkeepers, who were tenants inducted by the complainant society to pay the rent through cheque payable in the name of ADTA, A.C. Amritsar Diocesan property and obtain receipts signed by Basher Masih. In this manner, all the accused have collected huge amount by illegal means and embezzled the same. All the accused with the help of bad/gunda elements have taken possession of the shop in the premises of Epiphency Church on 12.09.2009 and tried to eject the tenants forcibly by throwing out their articles.

FIR No. 112 dated 29.09.2009 was registered at Police Station

petitioners.

Learned counsel for the petitioner has argued that there is a long history of litigation on the issue as to who represents ADTA and controls its properties. The suit filed by ADTA through its alleged Secretary Ven S. Haque was dismissed by the Civil Court vide judgment dated 16.08.1988 (Annexure P-2) with the observations in para 18 as follows:-

“The question arises who is the Secretary of the Amritsar Diocesan Trust Association, Amritsar. Sadrick Sohan Lal while appearing as DW-7, stated that he was elected Secretary of the Amritsar Diocesan Trust Association on 25.07.80. He brought the original minutes book and copy of the proceedings is Ex.PW7/1/DA18. It is evident from Ex. PW7/1/DA/18 minutes of the proceedings of the Amritsar Diocesan Trust Association, held on 25.07.1980, under the Chairmanship of Rt. Rev Aziz William, Bishop of the Diocesan Council of Amritsar, that Sadrick Sohan Lal was elected as Secretary of the Amritsar Diocesan Trust Association Rt. Rev. Aziz William, while appearing as DW3, also made a statement to the effect that Sadrick Sohan Lal was elected as Secretary of the Amritsar Diocesan Trust Association on 25.07.80 by the Committee of Management. It is therefore, held that Sadrick Sohan Lal is the Secretary of the Amritsar Diocesan Trust Association Plaintiff No.1.”

So far as the amendment of the rules of Barring Union Christian College is concerned, this amendment was made in the year 1989 and even if there is some impropriety, illegality or violation of rules, the matter could be brought to the notice of Registrar of firm, where the society was registered.

forcible possession of the property of Epiphency Church, he has referred to the order dated 17.05.2006 passed by this Court in Criminal Misc. No. M-9343 of 2004, which reads as follows:

Mr. Mahajan states that this petition has been rendered infructuous as by the impugned order, the keys of the Church have been handed over to respondent no. 1 and that in this eventuality, the parties should be directed to await the decision of the civil court. This petition is accordingly disposed of with a direction that any order in this petition will have no effect on the outcome of the civil suit pending between the parties.”

The proceedings initiated under Section 145 Cr.P.C. regarding property of Epiphency Church were ordered to be quashed vide order dated 18.10.2002 passed in CRM No. M-29442 of 1997 (Annexure P-6) and thereafter, the parties were ordered to maintain status quo regarding possession of the Church vide order dated 16.04.2004 passed in CRM No. M-9343 of 2004. As per order of the Sub Divisional Magistrate, Batala, dated 13.11.2003, keys of the Church were handed over to Sadrick Sohan Lal (petitioner No.1), wherein it was clarified that possession of the Church of Epiphency City road Batala is of Sadrick Sohan Lal etc. party No.1. In the judgment passed in Civil Suit No.192 of 1976 decided on 16.08.1988, it was categorically held that the property of Epiphency Church, Batala does not belong to Anglican Church. The complainant has also given affidavit dated 16.07.2013 wherein he has admitted that Sadrick Sohan Lal is Secretary of ADTA, which is in possession of the property in question. He had also consented to quash the FIR in question under the compromise.

Learned counsel for the respondent has argued that different

litigations are pending between the parties. The servant's quarter and shop of Epiphency Church are not in possession of the petitioner and they have tried to take forcible possession of the same on 12.09.2009. They have also tried to interfere in possession of servant's quarter of Church and this has given cause of action to the complainant to proceed against them. He has further argued that compromise deed was got signed from Hans Raj Arlibhan under a wrong belief. 1989 minutes of Annual General Meeting of Baring Union Christian College Association amending the memorandum of association and constitution of committee for the management of Barring Union Christian College, Batala were not accepted by the Himachal Pradesh in Civil Suit No.98 pending there. Even otherwise, the minutes of the meeting held on 30-31.10.1989 are not admitted by complainant. Vide order dated 09.08.2017 passed in SAO No. 24 of 2013, the petitioner was allowed to be impleaded as Secretary of ADTA and to represent it in appeal.

There appears to be a long pending litigation regarding the property of ADTA and one of the matter was decided by Additional Senior Sub Judge, Amritsar in the year 1988. In this case, I need not go to litigation between the parties for the purpose of deciding this petition, which relates to the occurrence alleged in the complaint filed by the respondent stating therein that the petitioners have tried to take possession of the servant's quarter and shops of Epiphency Church, Batala. While no date has been mentioned about taking of possession of the servant's quarters, the complainant has mentioned the date as 12.09.2009 about attempt of taking of possession of shops of Epiphency Church and collecting the rent from the tenants. It is apparent from the order passed by the Sub Divisional

Magistrate, Batala dated 16.11.2004 that the keys of Church were handed over to Sardick Sohan Lal on 13.11.2003.

The proceedings initiated regarding possession of the Church under Section 145 Cr.P.C. were quashed and parties were directed to maintain status quo regarding the possession over the suit property. All this happened in the year 2004. In para 19 of the reply filed by the State, it has been admitted that keys of Epiphency Church, Batala and adjoining property were handed over to Sardick Sohan Lal, vide order dated 13.11.2003 passed by Sub Divisional Magistrate, Batala.

In view of the judicial verdict recorded so far, petitioner No.1 is held to be the Secretary, a fact which the complainant is disputing. The matter in question is of civil nature regarding which various litigations are pending. However, learned counsel for the respondents has argued that civil and criminal litigation can go side by side. This proposition cannot be disputed but keeping in view the facts of this case, it is evident that State is admitting possession over the property of Epiphency Church of petitioner No. 1. Despite admitting in the reply about possession of petitioner No. 1 over disputed property, State has committed error while filing final report in the complaint/FIR against the petitioner wherein there is no reference that any document has been forged or fabricated. Learned counsel for the respondent has nowhere pointed out that against the alleged illegal amendment in the articles of memorandum of association and constitution of committee for management of Barring Union Christian College, Batala, the matter has ever been agitated before the Registrar or the competent authority and even if, any such matter has been referred there, no criminal

In view of the above facts and circumstances, I find that the entire exercise carried out by the police while presenting the challan is against the documentary evidence and misuse of the process of law, calling for exercising the power vested in this Court to quash the FIR as well as all the consequent proceedings.

The petition is allowed and FIR No. 112 dated 29.09.2009 registered for the offences punishable under Sections 420, 452, 463, 467, 468, 471, 506 read with Section 120-B IPC at Police Station City Batala is quashed. It is, however, made clear that the observations in this order with regard to averments in the complaint/FIR will not be considered as expression of opinion on merit on any issue in civil dispute qua the property in question pending between the parties.

(SURINDER GUPTA)
JUDGE

July 16, 2019
Jyoti-II

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>