

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 35163 of 2017
Date of Decision: 03.12.2019**

Jatav Samaj Utthan Samiti Shahpur Kalan

.....Petitioner

Versus

Sub Division Magistrate, Ballabgarh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Bikram Chaudhary, Advocate
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana
for respondents No. 1 and 5.

Mr. Devender Punia, Advocate
for respondents No. 2 and 3.

Mr. Jasmer Singh Rozera, Advocate
for respondent No. 4.

HARNARESH SINGH GILL, J.

This petition has been filed for quashing of Calandra filed under Section 145 Cr.P.C. (Annexure P-9), filed by respondents No. 2 and 3, and the proceeding initiated thereupon as the dispute between the parties was pending before the Civil Court, which now stands decided.

In the present case, Gram Panchayat, Shahpur Kalan had passed a resolution dated 28.5.2014 to give the land adjoining the scheduled caste choupal to the petitioner society and to construct a boundary wall over 1500 square yards of land. Respondents No. 2 and 3 had filed a suit for declaration and permanent injunction with a prayer to declare the

resolutions dated 22.6.2013 and 28.5.2014 to be null and void. Respondents No. 2 and 3 had also filed a suit for declaration and permanent injunction under Section 13-A of the Punjab Village Common Land Regulation Act.

Learned counsel for the petitioner contends that the proceedings under Section 145 Cr.P.C. are not maintainable if a civil suit between the same parties concerning the same property is pending. Moreover, the civil suit filed by respondents No. 2 and 3 was filed prior to the proceedings pending before respondent No. 1 i.e. Sub Division Magistrate, Ballabgarh. In support of his contentions, he relies on judgment of Hon'ble Supreme Court in ***Ram Sumer Puri Mahant versus State of U.P. and others AIR 1985 Supreme Court 472.***

On the other hand, learned State counsel has stated that the petitioner has not approached this Court with clean hands and true facts rather proper opportunity was granted to the petitioner in proceedings under Section 145 Cr.P.C. The factum of pendency of the civil suit is admitted but State of Haryana is not a party to that suit.

Learned counsel for respondents No. 2 and 3 has argued that Gram Panchayat-respondent No. 4 had no right, title or interest to pass the resolution as resolution dated 20.4.1956 was already passed in favour of predecessors of respondents No. 2 and 3.

It is not disputed that civil suit between the same parties regarding the same property was pending prior to the proceedings before Sub Division Magistrate and the trial Court in the civil suit had declined to grant ad-interim injunction vide order dated 12.12.2016 (Annexure P-4).

Moreover, the suit for declaration of the title under Section 13-A of the

Punjab Village Common Land Regulation Act was also pending. The proceedings under Section 145 Cr.P.C. cannot proceed. It is settled law that the parallel proceedings under Section 145 Cr.P.C. cannot be allowed when the civil proceedings between the same parties qua same property are pending. Moreover, the multiplicity of litigation is not in the interest of the parties and the Civil Court is competent to decide the question of title and the decision of the Civil Court would be binding on the Criminal Court.

This Court in *Hartej Singh versus Amarjit Singh and others 1999 CrL. L. J. 98* and *Charan Singh and others versus S.D.M. Jallandhar and others 1992 CrL. L. J. 671* have drawn the conclusion that initiation of parallel proceedings under Section 145 Cr.P.C. would not be justified.

Accordingly, this petition is allowed. Calandra under Section 145 Cr.P.C. (Annexure P-9) and the proceedings, arising thereupon, are quashed.

(HARNARESH SINGH GILL)
JUDGE

December 03, 2019
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No