

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-40993 of 2014

.....

Date of decision:14.05.2019

Col. Sukhwant Singh Grewal (Retd.)

.....Petitioner

v.

State of Punjab and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Kulvir Narwal, Advocate for the petitioner.

Ms. Monika Jalota, Deputy Advocate General, Punjab for the respondent-State.

Mr. Sangeet Pal Singh Baaghi, Advocate for Mr. Jagdev Singh Bhandohal, Advocate for complainant-respondent No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.169 dated 25.12.2013 (Annexure-P.1) registered for the offences under Sections 380, 427, 447, 506 and 120-B IPC at Police Station Division No.8 (Kailash Chowk), District Ludhiana and report dated 28.8.2014 under Section 173 Cr.P.C. (Annexure-P2).

Notice of motion was issued in this case.

Ms. Monika Jalota, learned Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and Mr. Sangeet Pal Singh Baaghi, learned Advocate for Mr. Jagdev Singh Bhandohal, Advocate has appeared for complainant-respondent No.2 and contested this petition.

I have heard learned counsel for the parties as well as State

counsel and have gone through the record.

From the record, I find that in this case challan has already been presented and charges have not been framed yet. A perusal of the FIR, which was registered on the application of the complainant, shows that the accused has demolished the wall of the plot of the complainant and had stolen the bricks. After completion of the investigation, challan has been presented under Section 173 Cr.P.C. against the present petitioner by the Police.

At the time of arguments, learned counsel for the petitioner argued that the private respondent-complainant was not in possession of the property. Rather, it was in the possession of the petitioner. Learned counsel for the petitioner further argued that a civil suit was filed by the private respondent which had been dismissed as withdrawn on 25.3.2012. He also argued that a legal notice in the year 1970 was also given by the private respondent showing the possession with the petitioner.

On the other hand, learned counsel for respondent No.2 argued that the petitioner was not in possession over the property in dispute. He also argued that the legal notice and civil suit were regarding other property. He argued that earlier the property was bearing the same number, but it was later on divided and the petitioner has placed on record the document regarding his own property.

After hearing learned counsel for the parties as well as learned State counsel, I find that the parties are on dispute regarding the fact of possession over the property. It is settled law that in the petition for quashing of the FIR, this Court is not to give any finding of fact. The

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finding of fact is to be given by the learned trial Court on the basis of evidence. It is also settled law that at the time of quashing proceedings, the defence of the accused and the documents of the accused cannot be looked into. This Court, at this stage, without any evidence cannot give the finding of fact as to whether the petitioner was in possession or whether the complainant was in possession at the time of occurrence. Furthermore, a perusal of the FIR shows that the allegation against the accused is that he demolished the wall in the property and stolen the bricks. From the perusal of the FIR, in no way, it can be held that no cognizable offence is made out.

Keeping in view the above discussion, I find that at this stage, in no way, it can be held that the registration of FIR amounts to miscarriage of justice or abuse of process of law.

Therefore, finding no merit in this petition, the same is dismissed.

May 14, 2019.

(Inderjit Singh)
Judge

hsp

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