

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

**Criminal Misc. No.43175 of 2016 (O&M)
Date of Decision: November 05, 2019**

Ajit Singh

.....PETITIONER(s).

VERSUS

Bahal Singh and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mrs. Baljeet Mann, Advocate
for the petitioner (s).

Mr. Avtar Singh Sandhu, Addl. A.G. Punjab.

Mr. H.S. Sidhu, Advocate for
Mr. B.S. Sidhu, Advocate
for respondents No.1 to 5.

SURINDER GUPTA, J.

Petitioner seeks setting aside of order dated 10.06.2016 passed by Learned Judicial Magistrate 1st Class, Malout (Annexure P-12), whereby accused No.1 and 2 (respondents No.1 and 2) arrayed in the complaint filed by the petitioner were ordered to be summoned to face trial for the offence punishable under Section 182 read with Section 120-B of Indian Penal Code (for short-IPC) and complaint against accused No.3 to 5 (respondents No.3 to 5 in this petition) was ordered to be dismissed. Petitioner filed revision against the order of learned Magistrate, which was also dismissed by learned Additional Sessions Judge, Sri Muktsar Sahib vide order dated

request of petitioner to summon accused No.1 and 2 for the offences punishable under Sections 467, 468, 471 IPC and summoning of respondents No.3 to 5 as accused.

Before proceeding further, it will be appropriate to take note of brief facts of the complaint filed by the petitioner.

In his complaint, petitioner alleged that he has purchased 71 kanals 14 marlas of land from Bahal Singh and other co-sharers vide sale deeds dated 18.07.2006 and 24.07.2006. After the execution of the sale deeds, possession of the land was handed over to him and mutation was also sanctioned. The vendors have sold the land along with all rights and water-course and water etc. On 21.03.2013, Bahal Singh in connivance with other accused, moved an application to Deputy Collector, Canal Division, Abohar seeking amendment of Warabandi Mogha No.8300/TL Lakkarwala Minor Village Bullerian, Ziledari Rupanna. In that application, Bahal Singh mentioned himself to be the owner of the land, which was subject matter of application and accused No.2 Charanjit Singh was shown to have purchased it through agreement to sell. Halqa Patwari (Canal) Gurnek Singh accused No.3 in connivance with Parminder Singh (accused No.4) Ziledar Rupanna, Canal Colony, Sri Muktsar Sahib without informing the complainant, prepared the case in favour of Charanjit Singh by recording statement of Bahal Singh and Charanjit Singh and sent the same to Deputy Collector Abohar Canal Division, Abohar along with recommendations for approval, which was enclosed with the case. Accused No.5 Satpal Deputy Collector in the absence of complainant and without going through the report, accepted the recommendation vide order dated 28.04.2014 and turn of water

for the aforesaid land was changed/transferred in the name of Charanjit Singh accused No.2. The order was passed by him on the basis of wrong statement and without taking any proof. The complainant on coming to know of the order of Deputy Collector, filed appeal against that order before Divisional Canal Officer, Abohar Division, Abohar, which was accepted vide order dated 27.08.2014 and the order of the lower Court i.e. Deputy Collector, Abohar was set aside. Against the order dated 27.08.2014, appeal was filed by Charanjit Singh, accused No.2 before Superintending Canal Officer, Ferozepur, Canal Circle, Ferozepur, who after looking into the record remanded the case back to Deputy Collector, Abohar for reconsidering the demand of accused Charanjit Singh and other co-sharers of the Mogha concerned and to decide the application again after thorough inquiry as per the civil record on the basis of facts. On remand of the case vide order dated 14.01.2015, Deputy Collector, Abohar heard the arguments on 27.02.2015 and kept the decision reserved. He upheld his earlier order thereby brushing aside of instructions/directions of his senior officers. He had kept his decision reserved in connivance with opposite party under political pressure and with intention to give them undue advantage. Complainant has alleged that accused No.1 and 2 have put forth wrong facts before the concerned authorities while accused No.3 to 5 have intentionally misused their powers in order to cause loss to the complainant and to give undue advantage to accused No.2 Charanjit Singh. Complainant moved a complaint against the concerned officials of the Canal Department as well as Bahal Singh and Charanjit Singh, on which departmental inquiry has been initiated against respondents No.3 to 5.

I have heard learned counsel for the parties and perused the paper book with their assistance.

Before proceeding further, it will be relevant to take note of the fact that petitioner arrayed Chief Engineer (Canal), Irrigation Department, Punjab as respondent No.6. When the purpose of impleading respondent No.6 in this petition was asked, learned counsel for the petitioner could not come up with any specific reply and simply submitted that respondent No.6 has been made party being departmental authority but he has not filed reply despite service.

Respondent No.6 is neither accused in the complaint filed by the petitioner nor was arrayed as party before the Courts below. No relief has been sought against respondent No.6. No one can be arrayed as party without claiming any relief against him. Petitioner by arraying respondent No.6 as party, has put him under inconvenience. For the lapse on the part of petitioner and for the inconvenience caused to respondent No.6, I am of the considered opinion that petitioner should be imposed costs payable to State of Punjab.

The allegations of the petitioner against respondents No.1 and 2 are that they have presented wrong facts before the concerned authorities. There is no allegation that they have forged any document, used forged document or produced any forged document in evidence. As such, learned trial Court has committed no error while declining to summon them for the offences punishable under Sections 467, 468 and 471 IPC and the Court of Revision below has committed no error while upholding the order of the learned trial Court in this regard.

The main grouse of the petitioner is against respondents No.3 to 5, who have not been ordered to be summoned by the trial Court and the Court of Revision below has not accepted the request of petitioner in this regard.

The question, which arises for consideration in this petition is as to what offence has been committed by respondents No.3 to 5?

Learned counsel for the petitioner has argued that petitioner purchased the land from Bahal Singh in the year 2006. Mutation was sanctioned in the revenue record. However, Canal Patwari failed to rectify the entry in his favour despite there being specific departmental instructions for him to go to the Revenue Patwari every year, compare his record and to update the canal record. Due to inaction on the part of respondent No.3 in rectifying his record, great prejudice has been caused to the petitioner due to order of the Deputy Collector amending the user of the water-course.

Accused No.3 and 4 have sent the report with recommendation to Satpal Singh, Deputy Collector. It is not case of the petitioner that report was sent against the record, which was allegedly not rectified and updated with the revenue record. For the alleged lapse in performance of their duty, the complainant could either move application before the concerned authorities for rectification of the canal record or complained to the departmental authorities. It is nowhere case of the petitioner that respondents No.3 and 4 have made any report against the record maintained by the Canal Department. Respondent No.5 had acted upon the report made to him and passed the order in discharge of his quasi-judicial duties. The petitioner availed the legal remedies available to him against the order of

Deputy Collector. If on remand, he has again passed the same order, legal remedy is available to the petitioner. For the order passed in discharge of his official duty, no legal action for proceeding against respondent No.5 on the complaint filed by petitioner, can be taken, as such, learned Courts below have rightly declined the request of petitioner in this regard. Both the Courts below have looked into the entire evidence and passed the detailed order while declining the request of petitioner to summon respondents No.3 to 5 as accused. I find no reason to interfere with the well-reasoned orders passed by the Courts below in this regard.

In view of the discussion above, this petition has no merits and the same is dismissed.

The petitioner is also imposed costs of ₹10,000/- for arraying respondent No.6 in this petition. Petitioner will deposit costs within four weeks in relevant head of Punjab State and produce the receipt before the trial Court, before it proceed further with the complaint against respondents No.1 and 2. Non-payment of costs will result in dismissal of complaint against respondents No.1 and 2.

November 05, 2019
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***