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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41762-2017
Date of decision-11.02.2020

V.K.Kaushal

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Akshay Jindal, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

MANOJ BAJAJ, J.

Complainant has filed this petition under Section 482 Cr.P.C for challenging the order dated 27.09.2017 (Annexure P-6) passed by learned Judicial Magistrate First Class, Ambala whereby his application under Section 173 (8) Cr.P.C for further investigation in case FIR No.219 dated 26.04.2010 under Sections 426 and 447 IPC registered at Police Station Ambala Cantt., has been dismissed.

Learned counsel for the petitioner contends that the accused (respondent No.2) encroached upon the land belonging to Municipal Corporation, Ambala and raised construction which has resulted into blocking the windows of the petitioner's house. Upon complaint given by petitioner, the above said FIR was registered. He submits that after registration of the case, a compromise was entered into between the parties and the dispute was settled before the Permanent Lok Adalat, Ambala on

08.06.2010, in a petition filed by complainant. The relevant portion reads as under:-

“Whatever construction the respondent may wish to raise, either stair case on the roof of the rear room or another room on the first floor of the front room in his possession shall be subject to the approval of site plan by Municipal Committee, Ambala Sadar, Ambala Cantt. Without sanction, he cannot undertake any construction. The petitioner will withdraw the criminal case filed against the respondent and also the complaint filed in the local municipal committee, Ambala Sadar. We, thus, grant the relief prayed for.”

Thereafter, the Police after completion of investigation, submitted the final report dated 27.06.2010 (Annexure P-7) in the subject FIR. The petitioner filed an application under Section 173 (8) Cr.P.C praying for further investigation on the ground that the encroachment is upon the Municipal Corporation land and this part has not been investigated by the Police. However, the trial Court vide impugned order dated 27.09.2017 (Annexure P-6) dismissed the application.

Notice of motion in the petition was issued on 06.11.2017 and at the same time, the trial Court was directed to adjourn the case beyond the date fixed before this Court. Pursuant to the notice of motion, status report by way of affidavit of Suresh Kaushik, HPS, Deputy Superintendent of Police, Ambala Cantt has been filed giving the details about the proceedings in the said FIR.

Learned counsel for the petitioner contends that the further investigation in the FIR is necessary and therefore, the trial Court has committed a serious error of law in dismissing the application filed by the complainant. At the same time, he is unable to point out the convincing

ground for further investigation in the FIR in question particularly when the land in question where the alleged construction was raised is owned by Municipal Corporation, Ambala.

A perusal of the impugned order and the case file makes it clear that as per complainant, the accused allegedly encroached upon the land which is not owned by complainant. The alleged offences are punishable under Sections 426 and 447 IPC and no material has been placed on record to make out a case for further investigation. The trial Court after considering the relevant material on record has passed a reasoned order and the same does not warrant any interference.

Resultantly, petition is dismissed.

(MANOJ BAJAJ)
JUDGE

11.02.2020

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No