

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

**CRM-M-32246-2020
Decided on : 10.11.2020**

Dharam Pal Singh and another
Versus
State of Haryana and another

... Petitioner(s)
... Respondent(s)

CRM-M-32422-2020

Dharam Pal Singh
Versus
State of Haryana and another

... Petitioner(s)
... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Ritesh Aggarwal, Advocate
for the petitioner(s).

Mr. Arun Beniwal, DAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

This order shall dispose of CRM-M-32246-2020 and CRM-M-32422-2020, as the issue involved in both the cases is similar.

The petitioners are seeking quashing of FIR No. 691, dated 29.08.2020, under Sections 120-B, 379, 427, 448, 452, 506 IPC, registered at Police Station Thanesar City, Kurukshetra and FIR No. 604, dated 14.07.2020, under Sections 427, 447, 452, 506 IPC, registered at Police Station Thanesar City, Kurukshetra and all the consequential proceedings arising out of the same.

Learned counsel for the petitioners *inter alia* contends that totally false and fabricated allegations of criminal trespass, mischief, house trespass and criminal intimidation, have been levelled against the petitioners in FIR No. 604, dated 14.07.2020, which are not supported by any shred of

evidence. The petitioners are senior citizens, who are being harassed by respondent No.2 (complainant), as he is staunch supporter of the sitting MLA, whereas, the petitioners did not oblige him during the Vidhan Sabha elections by voting in favour of the aforementioned MLA. It has also been contended that in fact, respondent No.2 (complainant) was not even residing at Plot No. 228, Sector 7, Urban Estate, Kurukshetra, which is adjoined the house of the petitioners, as he was living in H. No. 241, Sector 7, Urban Estate, Kurukshetra. Respondent No.2 (complainant) has just constructed two rooms in the aforementioned plot adjoining that of the petitioners, wherein, a family of migrants was staying. Since the migrants had been easing themselves in the open, the petitioners had objected to the same, which led to a dispute between the petitioners and respondent No.2 (complainant). Not only this, thereafter, the complainant started raising the height of the common wall and when the petitioners again objected to the same, they were bullied and threatened to be implicated in a criminal case. It has also been contended that respondent No.2 (complainant) himself demolished the wall illegally raised by him and thereafter with an oblique motive planted a false case on the petitioners. Learned counsel for the petitioners has further submitted that a civil dispute between the parties is being given a criminal color, inasmuch as, a suit, which was filed by respondent No.2 (complainant) and his wife under Sections 34, 38 & 39 of the Specific Relief Act before the Civil Court at Kurukshetra, against the petitioner, which was disposed of with directions to the petitioners to restrain from interfering in the common wall and dismantling the same till further orders.

I have heard learned counsel for the petitioners and perused the

contents of the FIR as well as the other material on record.

Undoubtedly, the inherent powers of this Court under Section 482 Cr.P.C. are vast and extensive, however, these powers have to be exercised prudently. The allegations levelled in the FIRs in questions do *prima facie* attract the mischief of the offences alleged. In case FIR No. 604, dated 14.07.2020, registered under Sections 427, 447, 452, 506 IPC, only challan has been presented before the Court below, whereas, in case FIR No. 691, dated 29.08.2020, registered under Sections 120-B, 379, 427, 448, 452, 506 IPC, challan is yet to be presented. Hence, in the circumstances, this Court cannot quash a prosecution in anticipation and something which is yet to be born. Moreover, this Court cannot appreciate the pleadings under Section 482 Cr.P.C. nor can it go into questions of fact. Needless to add, questions of fact can be decided only on the basis of evidence, which would be led during trial and not in a petition under Section 482 Cr.P.C.

Therefore, in the facts and circumstances of the case, no ground for quashing of the aforesaid FIRs is made out. However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

November 10, 2020

J.Ram

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