

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

**CRM-M-16891-2021
Date of decision:-22.4.2021**

Dr.Gaurav Khanna

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Rajiv Joshi, Advocate
for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

Petitioner – Dr.Gaurav Khanna, an accused has brought the instant petition under Section 482 Cr.P.C. for quashing of the FIR No.0203 dated 23.8.2019, under Sections 447, 511, 34, 427 read with Section 506 IPC, registered with Police Station Division-6, District Ludhiana and the entire consequential proceedings arising therefrom.

Briefly stated, the facts of the case are that criminal machinery in this case was set into motion by complainant Surinder Kumar Jain son of Sh.Niwas Jain, resident of House No.124-C, Kichlu Nagar, PAU Ludhiana, aged about 66 years, who in the statement got recorded by him with the police stated that he has been tenant in a shop situated at Gill Road near Shilpi Hospital, Millerganj, Ludhiana since

the year 1976 in which he has been doing work of industrial chemical trading; that he had taken the shop on rent from Rajinder Kumar, Jaswinder Kumar and others, residents of village Sarinh, Ludhiana and that shop was later on bought by Dr.Gaurav Khanna (present petitioner), owner of Shilpi Hospital, Gill Road, Ludhiana and he had filed an ejectment petition against him in the Court on 6.9.2019; however on 23.8.2019 when the complainant came to his shop at about 10:00 a.m., he found that overhanging/CHAJJA above the shutter was broken and when he went inside the shop, he observed that Dr.Gaurav Khanna along with other people by opening the door and windows on the wall adjacent to the terrace of the shop had tried to take possession of the shop; the complainant was about to get the overhanging/CHAJJA repaired then Dr.Gaurav Khanna and his friends came and threatened the complainant and his workers; the father-in-law of Dr.Gaurav Khanna also threatened the complainant.

On matter being reported to the police, formal FIR was recorded and investigation in the case started. On completion of investigation, challan against the accused is said to have been filed in the Court. The petitioner has knocked at the door of this Court seeking quashing of the FIR along with ancillary proceedings.

I have heard learned counsel for the petitioner besides going through the record and I am of the considered view that the petition cannot be allowed.

The petitioner is specifically named in the FIR and there are clear incriminating allegations against him showing commission of cognizable offences. The police had carried out investigation and then

found sufficient material to forward the petitioner to face trial, as such it cannot be said that the FIR does not disclose commission of any cognizable offence.

Furthermore, though according to learned counsel for the petitioner, the FIR has been lodged as a counter-blast to the ejectment petition filed by the present petitioner against the respondent-complainant and as such is an abuse of process of law but I am not convinced by this contention. The complainant having reported the matter to the police making serious allegations against the petitioner of having committed cognizable offence, the matter having been probed and thereafter petitioner/accused having been forwarded to face trial by filing challan against him in the Court, it cannot certainly be not said that the FIR is an abuse of process of law.

Though a landlord has a right to seek ejectment of the tenant from the demised premises, which of course can be done in accordance with law but at the same time, a landlord cannot cause damage to the demised premises in an attempt to take forcible possession. As such, it cannot be said that FIR lodged is an abuse of process of law.

Furthermore in the petition, the petitioner has taken several pleas on merit, which require leading of evidence to prove those. The petitioner has got remedy of raising all the pleas before the trial Court at the time of framing of charge or any other appropriate time. There is full-fledged mechanism for adjudication of the grievances put forward by him. The petitioner can certainly not adopt shortcut procedure by filing petition under Section 482 Cr.P.C. so as to shift the forum of

adjudication of dispute from the trial Court to this Court. It is not function of this Court to hold a trial in the matter and then to reach any particular inference.

Section 482 Cr.P.C. saves inherent powers of the High Court to make order, which may be necessary to give effect to any order under Code of Criminal Procedure 1973, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

The present petition does not come within four corners of the said provision. It may be observed here that Section 482 Cr.P.C. is not panacea for all the ills and just because a litigant can hope to get prompt results from this Court with regard to adjudication of his grievances that does not mean that the normal procedure is to be given go by and this Court is to take up each and every dispute and then decide that.

As such, I do not see any reason to exercise power under Section 482 Cr.P.C. so as to quash the FIR in question and the ancillary proceedings arising therefrom.

The petition is accordingly disposed of relegating the petitioner to the remedy of raising all the pleas mentioned in the petition or otherwise available to him before the trial Court at the time of framing of charge or at any other appropriate time.

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22.4.2021
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No