

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRR-773-2022 (O&M)

Date of Decision: September 05, 2022

Dilbag Singh and others

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. B.D. Sharma, Advocate,
for the petitioners.

Ms. Ruchika Sabherwal, DAG, Punjab.

Vivek Puri, J.

The petitioners have assailed the order dated 14.12.2021 on the application under Section 227 of the Code of Criminal Procedure (for short `Cr.P.C.') for discharge passed by the learned trial Court in the case bearing FIR No. 66, dated 28.10.2018, under Sections 323/324/452/506/34 of the Indian Penal Code (for short `IPC') and Section 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short `the Act') (offence under Sections 452/509 IPC and Section 3(1)(s) of the Act added later on vide DDR No. 23 dated 10.02.2019), registered at Police Station Sarai Amanat Khan, District Tarn Taran.

The petitioners are facing trial in the case bearing FIR No. 66 dated 28.10.2018. The charge under Sections 452, 323, 324 read with Section 34, 201, 506, 509 IPC and Section 3(1)(s) of the Act, was framed in terms of the order dated 14.12.2021 passed by the learned trial Court. The petitioners have submitted an application for discharge on 01.09.2021 and the same was dismissed in terms of the impugned order dated 14.12.2021.

Feeling aggrieved by the aforesaid order and framing of the charges, the petitioners have preferred the present revision petition.

Briefly, the FIR has been registered on the basis of the statement of Davinder Kaur alleging that her husband had retired from Army. They are in possession of land for the last 32 years of Wakf Board, which is situated behind their house. On 16.09.2018, petitioner no.1 armed with Kirpan, petitioner no.2 armed with Gandasi, petitioner no.3 empty handed along with petitioner no.4, entered their house and inflicted injuries upon the complainant and Balwinder Kaur, her sister-in-law.

Learned counsel for the petitioners contend that initially there was no allegation with regard to the commission of offence under Sections 452, 201 IPC and Section 3 of the Act leveled in the FIR and the same are in result of an afterthought. The said offences had been added

at a subsequent stage, on the basis of an application dated 12.11.2018. Consequently, no charge can be framed with regard to the offence under Sections 452, 509 IPC and Section 3 of the Act, as the same is result of an afterthought. Moreover, the complainant side is in illegal possession of the panchayat land and the petitioners had stopped them from doing so.

At the time of framing of the charges, the Court is required to see the existence of a prima facie case. The trial Court is required to see as to whether there is sufficient ground for proceeding against the accused. Only existence of a prima facie case is to be seen and it is not required that there must be material beyond that to establish the involvement of the accused in the commission of crime. At the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for presuming that the accused had committed the offence. Even a strong suspicion based on material will justify the trial Court in framing of the charges.

It will be too early to conclude that no offence under Sections 452, 509 IPC and Section 3 of the Act is made out as no allegation in this regard was mentioned in the FIR. It may be mentioned here that an inquiry in the matter has been conducted and the said offences have been added on the basis of the recommendations made by the

Officer conducting the inquiry vide GD No. 23 dated 10.02.2019, Police Station Sarai Amanat Khan, District Tarn Taran (Annexure P-2). The controversy as to whether the same is result of an afterthought and consequently false is to be seen and adjudicated by the trial Court after the rival allegations are substantiated with evidence. Even the aspect with regard to the complainant party being an illegal possession of the panchayat land is a matter of evidence to be appreciated by the trial Court at an appropriate stage. It may be a defence version of the petitioners that they had resisted the attempt of the complainant party to take forcible possession of the panchayat land and the probability thereof is to be looked into and adjudicated by the trial Court at the appropriate stage of the trial.

Consequently, no illegality or irregularity is made out in the order vide which the application for the petitioners for discharge has been dismissed and the charges have been framed by the learned trial Court.

Accordingly, instant revision petition is dismissed.

September 05, 2022

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(Vivek Puri)
Judge

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