

119+267

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

**CWP-11489-2022 (O&M).
Decided on: August 18, 2022.**

Raghav Arora and another

.. Petitioners

VERSUS

State of Punjab and others

.. Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

**PRESENT Mr. Rahul Sharma, Advocate,
for the petitioners.**

Ms. Maloo Chahal, AAG, Punjab.

Mr. A.S.Gulati, Advocate, for respondent No.5.

VINOD S. BHARDWAJ, J. (ORAL)

CM-12244-CWP-2022

The instant application has been filed by the applicants-
petitioners for placing on record the replication to the reply filed on behalf
of respondent No.5.

The learned counsel appearing on behalf of the
respondents have no objection to the same.

Accordingly, the instant application is allowed.

Replication is taken on record.

The Registry is directed to tag the same at appropriate place.

Main Case

The present writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of writ to restrain respondent No.5 from initiating legal proceedings or filing complaints against a cause of action which is common and qua which earlier complaints instituted have already been quashed by the High Court.

2 Learned counsel appearing on behalf of the petitioners has impugned 65 criminal complaints instituted by respondent No.5 by alleging that the said complaints pertain to a cause of action qua which the initial complaints stood quashed after noticing that the dispute was civil and that civil proceedings are already pending before the Court and inter-pleader application already stands filed by the petitioner.

3 The brief factual background of dispute between the petitioners and respondent No.5 has been summarized as under:-

(a) The Petitioner-Company, M/s Kayako Helpdesk Pvt. Ltd., had taken a property owned by Respondent No. 5 on lease. However, certain disputes had occurred between Respondent No. 5 and Smt. Jaishree Rai, the person in whose favour an Agreement to Sell had been executed by Respondent No. 5.

(b) The resultant Civil Suit filed by Respondent No. 5 was compromised and a Deed of Compromise dated 19.03.2014 was executed between the parties and in terms thereof, the Petitioner-Company, M/s Kayako Helpdesk Pvt. Ltd., had started paying the rent to Respondent No. 5.

(c) Thereafter, two eviction petitions came to be filed against the Petitioner Company. One by Respondent No. 5 and another by Smt. Jaishree Rai, who both claimed to be the landlord of the Company, M/s Kayako Helpdesk Pvt. Ltd.

(d) As a result of this dispute, the Company, M/s Kayako Helpdesk Pvt. Ltd., was left with no alternative but to file an inter-pleader suit arraying both Respondent No. 5 and Smt. Jaishree Rai as defendants therein so that the issue with regard to who was the landlord of the Company, M/s Kayako Helpdesk Pvt. Ltd. could be determined.

(e) Further, aggrieved by the continuing dispute between Respondent No. 5 and Smt. Jaishree Rai, the Company, M/s Kayako Helpdesk Pvt. Ltd., vacated the premises in September, 2015.

(f) Additionally, the rent for the period in dispute, i.e. 1.02.2015 to 30.09.2015, along with interest thereon, was also deposited by the Company, M/s Kayako Helpdesk Pvt. Ltd., with the Ld. Civil Court in the Inter-Pleader Suit by the Company.

(g) Despite the above, respondent No.5 filed 12 Criminal Complaints before various Ld. Courts qua the same cause of action.

(h) This Court took cognizance of the malicious nature of the complaints filed by Respondent No. 5 and quashed the same vide Order dated 17.05.2019, holding them to be an abuse of the process of law. In fact, while allowing all the quashing petitions, this Hon'ble Court had inter-alia observed as under:

"In view of the aforesaid discussion, it is found that various criminal complaints as also the FIR are abuse of the process of Court. Still further, the dispute between the parties is found to be of a civil nature

and the parties are already litigating before the Civil Court. Hence, criminal proceedings cannot be allowed to continue. Further, Sandeep Ohri, the Petitioner, in one of the petition is found guilty of suppressing the facts from the Court while filing various criminal complaints."

(i) Some of the Directors of the Petitioner Company, i.e. Varun Shoor and Poonam Shoor, had also filed CWP No. 21163 of 2018 (Varun Shoor and Another Versus State of Punjab and Others) for restraining Respondent No. 5 from initiating any other legal proceedings and/or any further complaints in relation with the events/cause of action arising out of the above-said transaction.

In addition thereto, the Petitioners therein had also prayed for the award of exemplary damages against Respondent No. 5 for abusing the process of law and instituting multiple criminal complaints against the Petitioners therein qua the same cause of action.

(j) This Court had found the various complaints filed by Respondent No. 5 to be an abuse of process of law. Respondent No. 5, got recorded a statement before this Court, during the course of proceedings in CWP No. 21163 of 2018 (Varun Shoor and Another Versus State of Punjab and Others), to the effect that he has amicably settled the matter and withdrawn all complaints registered by him against the Petitioners.

(k) As a result, the dispute between the parties stood resolved and all of the remaining malicious criminal complaints filed against the Petitioners were withdrawn by Respondent No. 5.

(l) Importantly, Respondent No. 5 also sold the property, which was the cause/genesis of his alleged grievances, vide Registered Sale Deeds dated 10.07.2019 and 12.07.2019. Thus, as it stands on date, Respondent No. 5 no longer has

neither any stake or any interest in the said disputed property, i.e., Office No. 1-A, situated on the 5th Floor of Plot No. 21-22, G.T. Road, Jalandhar.

(m) Despite all of the above, Respondent No. 5 has now, after a hiatus of about two years, once again started instituting multiple criminal proceedings against the Petitioners in relation with the same transaction and cause of action qua the above-said property.

(n) 65 complaints/applications qua the same cause of action, which was earlier quashed by this Court, have been preferred before the District Courts at Jalandhar and Chandigarh.

4 Learned counsel appearing on behalf of respondent No.5 assisted by respondent No.5 who is present in the Court in person, after arguing the matter at some length, has made a statement that all the 65 complaints referred to in the present petition shall be withdrawn by respondent No.5 by suffering appropriate statement or moving an appropriate application before the concerned Court within a period of 30 days from today. The aforesaid statement made by respondent No.5, is accepted today in Court

5 In view of above, the present petition is dismissed as not pressed. It is, however, made clear that the respondent No.5 shall remain bound by his undertaking/statement given by him in Court today.

August 18, 2022.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No