

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

CRM-M-49605-2017 (O&M)

Date of decision: 04.07.2022

Raj Kumar Ratra

...Petitioner

Versus

Gurmeet Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sourabh Goel, Advocate for the petitioner.

Mr. Rajdeep Singh Chugh, Advocate for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of complaint filed by the respondent under Sections 268, 269, 270, 278, 427, 451, 506 and 120-B IPC, and the summoning order dated 02.06.2017 (Annexure P-6) passed by the learned Judicial Magistrate 1st Class, Ludhiana, vide which the petitioner has been summoned under Sections 278, 427 and 120- B IPC.

Learned counsel for the petitioner submits that the complainant's father was tenant under Sant Kumar Grover (now deceased); that after complainant's father's death, the complainant became the tenant; that it is the allegation in the complaint that on the first floor of the shop under the tenancy of the complainant, a wash room was constructed and that the petitioner had allegedly hatched a conspiracy with the other accused in facilitating the leakage of the water from the said wash room. It is further submitted that the petitioner has nothing to do with the alleged occurrence and he has been involved in the complaint being the son-in-law of Sant Kumar Grover

(deceased), the owner of the property in question.

It is yet further submitted that earlier the learned Magistrate had dismissed the complaint vide order dated 31.07.2015; that the revision petition preferred by the complainant challenging the order dated 31.07.2015 was allowed on 28.04.2017 by the learned Additional Sessions Judge, Ludhiana, and the case was remitted to pass a fresh order and that succumbing to the said directions, the impugned order has been passed by the learned Magistrate, without taking into consideration that the petitioner had no role to play in the alleged occurrence.

It is further the argument of the learned counsel for the petitioner that the petitioner is not residing in the premises in question and as stated above, the petitioner has been implicated being the son-in-law of the owner of the property.

On the other hand learned counsel for the complainant submits that the present petition is not maintainable as the order dated 02.06.2017 is revisable; that there are specific allegations against the petitioner and other co-accused, regarding the hatching of a criminal conspiracy and facilitating the leakage of the filthy water from the washroom and that the petitioner is residing in the same locality and, therefore, the stand of the petitioner that he had no role to play does not hold the ground.

I have heard the learned counsel for the parties and have also gone through the paper-book.

Earlier, the complaint filed by the complainant was dismissed by the learned Judicial Magistrate 1st Class, Ludhiana, vide order dated 31.07.2015 but the said order was set aside by the learned Additional Sessions

Judge, Ludhiana, vide order dated 28.04.2017 and the case was remanded to pass a fresh order.

There is no denying the fact that the petitioner is the son-in-law of the owner of the property. There is no allegation against the petitioner, except that he had allegedly hatched a criminal conspiracy. Though the learned Magistrate has observed about the alleged presence of the accused at the place of occurrence and the criminal conspiracy, yet the presence of the petitioner has not been delineated so as to establish its veracity. It seems that the petitioner has been roped in being the son-in-law of the owner of the shop. The facts on record would indicate towards the general tendency of roping in the relative(s).

In view of the above, the impugned order dated 02.06.2017 is set aside, qua the present petitioner and the complainant against him is dismissed.

The petition is allowed.

(HARNARESH SINGH GILL)
JUDGE

04.07.2022
Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No