

(276) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35001-2019(O&M)
Date of Decision: 31.08.2022

RASHPAL SINGH & OTHERS

... Petitioners

Versus

STATE OF PUNJAB & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.S. Ghuman, Advocate for the petitioners.

Mr. Ravinder Singh, AAG, Punjab.

Mr. K.S. Dadwal, Advocate for respondent No.2.

JASJIT SINGH BEDI, J.

CRM-39460-2019

The present application has been filed by the learned counsel for the applicant-respondent No.2 for placing on record the copy of reply Annexures R-2/1 to R-2/6.

For the reasons mentioned in the application, the same is allowed and the copy of reply Annexures R-2/1 to R-2/6 are taken on record.

CRM-M-35001-2019

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the impugned complaint No.88 of 2016 (Annexure P-1) instituted on 01.09.2016 under Sections 420, 465, 467, 468, 471, 120-B IPC tilted as “Net Ram Versus Ram Piari and Others”, pending in the Court of learned Judicial Magistrate, 1st Class, Anandpur Sahib, District Rupnagar along with the summoning order dated 13.06.2017 (Annexure P-2) wherein, the

petitioners have been ordered to be summoned under Sections 420, 465, 467, 468, 471, 120-B IPC along with all subsequent proceedings arising therefrom.

2. The present complaint came to be filed against five accused persons namely, Ram Piari wife of late Rattan Chand (accused No.1), Chet Ram son of Rattan Chand (accused No.2), Rashpal Singh son of Sh. Bakhtawar Singh the then Patwari of Village Sarthali PO Takhatgarh PS Nurpur Bedi, District Rupnagar (accused No.3 and petitioner No.1), Singhara Singh the then Kanungo of Village Sarthali PO Takhatgarh PS Nurpur Bedi, District Rupnagar (accused No.4 and petitioner No.2) and Harsimran Singh the then Naib Tehsildar, Nurpur Bedi PS Nurpur Bedi, District Rupnagar (accused No.5 and petitioner No.3).

3. Briefly the allegations are that the Gram Panchayat of Village Sarthali was owning 0K-5M land bearing Khewat No.335 Khatauni No.473 Khasra No.90(0-5) Gair Mumkin Latrines as per revenue record. The accused No.1-Ram Piari was working as a Safai Sewak in Public Health Department, Punjab and she had two sons namely, Chet Ram i.e. accused No.2 and Naresh Kumar. Both her sons were working in Punjab Government, Departments. Chet Ram was working in Police Department whereas Naresh Kumar was working in Punjab Tourism. The accused No.1 wrongly and illegally firstly took the illegal possession of Khasra No.90 which was owned by the Gram Panchayat and used by the inhabitants of village Sarthali as is clear from the revenue record. On the basis of alleged illegal possession, Ram Piari (accused No.1) filed the civil suit against Gram Panchayat which was hotly contested by Gram Panchayat of Village Sarthali. Later on all the accused connived with each other and hatched a conspiracy in order to get illegal gain for the

accused Nos.1 and 2. The accused No.3 wrongly and illegally entered the mutation No.3380 on 20.04.1997 in favour of accused No.1 on the basis of the alleged order of Director Panchayat order No.1/31/81/LD 1-87/14943-15080 dated 11.05.1987. Thereafter, the said mutation was verified by accused No.4 and later on the said mutation was sanctioned on 27.04.1998 by the accused No.5. All the accused were knowing that there was no such order of Director Panchayat letter No.1/31/81/LD 1-87/14943-15080 dated 11.05.1987. In fact the above mentioned letter was not an order but instructions issued by the then Deputy Director Land Development on behalf of the Director Village Development and Panchayat Punjab vide which the conditions were mentioned for the allotment of the plots to landless labourer families. It is further stated in the complaint that all the accused knew that the accused No.1 was neither a labourer nor landless person as firstly she was working as Safai Sewak in the Public Health Department and secondly she was owning land measuring about 1 kanal in khasra No.18/13/1 which she later on exchanged with one Malkiat Singh son of Kanshi Ram. It is further stated that this fact was in the knowledge of all the accused that this piece of land measuring 0K-5M land was used by the inhabitants of the village as per revenue record and the accused Nos.1 and 2 had got no right and title with the same. The accused No.1 had wrongly and illegally got sanctioned the mutation No.3380 with the active connivance of the other accused in order to get the illegal gain. It was further stated that the accused had forged mutation No.3380 and the revenue record and after having conspired with each other in order to cheat the Gram Panchayat as well as inhabitants of village Sarthali including the complainant, the accused had got wrongful gain from the above

mentioned illegal action/forged mutation No.3380. Thus, the accused had committed the offence under Sections 420, 465, 467, 468, 471 and 120-B IPC.

4. Based on the aforementioned allegations, the accused came to be summoned for having committed the offences under Sections 420, 465, 467, 468, 471 and 120-B IPC vide summoning order dated 13.06.2017 (Annexure P-2).

5. Accused Nos.1 and 2 i.e. Ram Piari wife of late Rattan Chand and Chet Ram son of Rattan Chand filed a petition for quashing of the present complaint No.88 of 2016 (Annexure P-1) and impugned summoning order dated 13.06.2017 (Annexure P-2) and the same stands quashed by a Coordinate Bench of this Court vide order dated 26.07.2019 passed in CRM-M-33124-2017 (Annexure P-3).

6. The learned counsel for the petitioners contends that the allegations against the petitioners are absolutely baseless. In fact, there were Government instructions of the Director Panchayat dated 11.05.1987 governing transfer of land to poor persons. In furtherance of the said instructions, the Gram Sabha Sarthali vide its proceedings dated 17.12.1990 (Annexure P-4) sought permission from the Panchayat Department, Chandigarh to provide land to Ram Piari to make her house. Based on the said recommendation, the Director Rural Development and Panchayat Punjab, Chandigarh wrote a communication to the Block Development and Panchayat Officer, Nurpur Bedi, District Rupnagar dated 09.12.1997 (Annexure P-5) stating that appropriate orders be passed for allotment of a residential plot to Ram Piari, if she fulfilled the necessary conditions, as per the Government

Instructions letter dated 11.05.1987. Based on the said communication, the Block Development and Panchayat Officer, Nurpur Bedi, District Rupnagar wrote a letter dated 23.01.1998 to Ramesh Kumar, Panchayat Secretary Block Nurpur Bedi (Annexure P-6) stating that orders had been issued to provide a residential plot to Smt. Ram Piari as per Government letter dated 09.12.1997 in terms of the recommendations of the Gram Panchayat dated 17.12.1990. Pursuant to the above-said communications, the said Ram Piari was allotted land measuring 05 marla. Thereafter, petitioner No.1 (accused No.3) Rashpal Singh, Patwari entered mutation No.3380 on 20.04.1997 in favour of the said accused. The said mutation was verified by petitioner No.2 (accused No.4) Singhara Singh, Kanungo and sanctioned on 27.04.1998 by petitioner No.3 (accused No.5) Harsimran Singh, Naib Tehsildar. He thus, contends that the sequence as enumerated would establish that whatever the petitioners did was in furtherance of various orders passed by the Gram Panchayat as also the Department of Rural Development and Panchayat. He further contends that the beneficiaries namely accused Nos.1 and 2 i.e. Ram Pyari and her son Chet Ram filed a petition for quashing of the complaint No.88 of 2016 (Annexure P-1) and impugned summoning order dated 13.06.2017 (Annexure P-2) and the said petition was allowed and the complaint and the summoning order stood quashed qua the petitioners therein. A Special Leave Petition against the said judgment preferred by the complainant-Net Ram also came to be dismissed by the Hon'ble Supreme Court vide order dated 24.02.2020. He thus, contends that the continuance of the proceedings against the petitioner would be nothing but an abuse of the process of the Court, moreso, when the proceedings qua the beneficiaries stand quashed.

7. On the other hand, the learned counsel for respondent No.2-Net Ram contends that there is no order of the Director Panchayat dated 11.05.1987, which is the basis of the mutation sanctioned by the accused/petitioners. In fact, there are instructions dated 11.05.1987 issued by the Deputy Director Land Development on behalf of the Director Village Development and Panchayat Punjab. He thus, contends that the offence is made out and proceedings ought not to be quashed qua the petitioners. He, however, does not dispute the fact that the proceedings qua the beneficiaries stand quashed and the Special Leave Petition against the said order stands dismissed.

8. I have heard the learned counsel for the parties at length.

9. The sequence as enumerated above would establish that the petitioners who are the Patwari, Kanungo and Naib Tehsildar respectively entered, verified and sanctioned the mutation in terms of the Resolution of a Gram Sabha (Annexure P-4) and also in terms of the communication (Annexures P-5 and P-6), as per which Ram Piari was to be allotted a residential plot on the basis of the Resolution of the Gram Sabha. Apparently, the actions of the petitioners cannot be faulted in any manner whatsoever, since they simply acted in the discharge of their official duties. Interestingly, the Resolution of the Gram Panchayat was passed on 17.12.1990 and the same came to be challenged by the complainant after the gap of 26 years once he remained unsuccessful in the civil litigation initiated by him. In fact, none else from the village Sarthali had come forward to challenge the said allotment in favour of Ram Piari. Therefore, it appears that the present litigation has been initiated because of personal vendetta. The explanation

furnished by respondent No.2-complainant of the filing of the complaint after a delay of 26 years that he came to know about the Resolution dated 17.12.1990 only in the year 2013 is improbable. Ram Piari had constructed a residential house on the said plot and had been living there for a long time and it defies logic when the complainant suggests that he was unaware of the passing of the said Resolution.

10. Even otherwise, the complaint does not refer to any document which has been forged by the accused. The counsel for respondent No.2-complainant has not been able to point out as to which document had been forged. So far as, the offence of cheating is concerned, as has already been enumerated hereinabove, Ram Piari was allotted a plot in accordance with law and proceedings qua her have already been quashed. Therefore, no offence whatsoever is made out under Sections 420, 465, 467, 468, 471 and 120-B IPC qua the petitioners as well.

11. In view of the aforementioned discussion, the present petition is allowed and the impugned complaint No.88 of 2016 (Annexure P-1) and impugned summoning order dated 13.06.2017 (Annexure P-2) passed by the learned Judicial Magistrate, 1st Class, Anandpur Sahib, District Rupnagar is hereby quashed qua the petitioners.

(JASJIT SINGH BEDI)
JUDGE

31 .08.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No