

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

CRM M-12119 of 2021

Date of Decision: 11.12.2023

Gurpreet Singh and another

...Petitioners

Versus

State of Punjab and another

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Jaideep Verma, Advocate
for the petitioners.

Mr. Mohinder Singh Joshi, Addl A.G. Punjab,

Mr. Naveen Batra, Advocate, for respondent No. 2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the FIR No. 96 dated 01.07.2020 registered under Sections 447, 506 and 34 IPC at Police Station Anandpur Sahib, District Rupnagar and all subsequent proceedings arising therefrom.

2. The FIR in the present case was registered on the basis of the statement made by Kesar Singh son of Maan Singh and the same has been extracted as under:-

“Kesar Singh son of Maan Singh, resident of village Thaluh, police station Shri Anandpur Sahib, District Rupnagar, aged about 82 years, mobile No. 84278-37029, "stated that I am resident of aforesaid

address, I am agriculturist. I have a son namely Bhag Singh, who is doing private job in M.P. I have about 03 Kanal land in village Thalu which is cultivated by me. I have 01 Kanal cultivating land which is cultivated by us since the time of our forefathers. This land is owned by me & registered on my name. On 27.06.2020, I was at my home, then I came to know that Gurpreet Singh son of Ajmer Singh & Harjinder Singh son of Dilbagh, resident of village Thalu, police station Shri Anandpur Sahib has cultivated my 01 Kanal land with the help of Sonalika Tractor & damaged my Maize crop with the intention to take forcible possession of my land. When, I went to stop them, they extended live threats to me & said that they have cultivated the land. You may do what you want to do. They are headstrong persons & forcibly cultivated my land. They want to forcibly take possession of my land. The entire occurrence is witnessed by my neighbour Ashwani Kumar son of Roshan Lal, resident of village Thalu. Action may kindly be taken against Gurpreet Singh son Ajmer Singh, Harjinder Singh son of Dilbagh Singh. Today, I alongwith Ashwani Kumar have come present in the police station & recorded my statement before your goodself which is heard & found correct”.

3. Learned counsel for the petitioners contended that the petitioners have been falsely involved in the present case under some political pressure. As per the petitioners, Gram Panchayat, village Thaluh (lower), Tehsil Nangal, District Rupnagar is owner of the shamlat land measuring 1 Kanal 3 Marlas comprised in Khewat No. 422/403 Khatauni No. 536 Khasra No. 23//12/3 (1-3) situated in the revenue estate of village Thaluh (lower) as per the Jamabandi for the year 2015-2016 (Annexure P-2). Learned counsel further submitted that the Gram Panchayat, Thaluh (lower) used to give the said shamlat land for cultivation in open auction every year. Earlier, the father of the complainant and, thereafter, the complainant also used to take the said shamlat land in an open auction by paying the auction amount. While referring to the auction proceedings and auction money receipts (Annexure P-3 to Annexure P-9), learned counsel submitted that during the year 2019-2020 and prior to that, the complainant had taken the land on auction. Finally, the time period of the lease had expired on 03.06.2020. After the expiry of the lease period, the open annual auction of the shamlat land was scheduled on 13.06.2020. The general public assembled and the auction proceedings started. However, the complainant had obstructed the auction proceedings, which were held by the Gram Panchayat. Again auction was rescheduled for 27.06.2020 and the Munadi was conducted in the area. On 27.06.2020, again the auction proceedings

were conducted and the petitioner No. 1 was the highest bidder. Consequently, the Gram Panchayat confirmed the auction in favour of petitioner No. 1 and the auction proceedings and receipt issued by the Gram Panchayat were annexed as Annexures P-10 to P-11. Thus, it is evident that the petitioner No. 1 had taken the shamlat land for cultivation in open auction for the year 2020-21 and the petitioner No. 1 was legally entitled to cultivate the said land. Consequently, the petitioner No. 1 had ploughed and then sown Rabi crop in the land with the help of the tractor of the petitioner No. 2. Learned counsel further submitted that since the petitioner No. 1 had taken the land in open auction by offering the highest bid, he was entitled to take the possession of the land. However, due to strong political hold of the complainant, the present FIR was registered against the petitioner for criminal trespass and criminal intimidation. Learned counsel further submitted that since the complainant was bent upon to disturb the possession of the petitioner, the petitioner instituted a civil suit for permanent injunction (Annexure P-12) against the complainant and his companions. The Additional Civil Judge (Senior Division), Rupnagar considered the entire matter and found a *prima facie* case in favour of the petitioners and vide order dated 18.07.2020 (Annexure P-13), directed the parties to maintain status quo. Learned counsel for the petitioners further submitted that the complainant was neither the owner nor in possession of the land. Admittedly, the gram panchayat, was the owner of the land and after paying the highest auction

amount, the petitioner No. 1 had taken the possession of the land.

Consequently, there was no question of trespass over the land.

4. The reply to the petition was filed by way of an affidavit of the Deputy Superintendent of Police Anandpur Sahib. Learned counsel for the State submitted that since the allegations leveled against the petitioners constituted a cognizable offence, the FIR was registered. Learned counsel further submitted that the petitioners had raised the disputed questions of fact and the present petition was liable to be dismissed. However, the learned State counsel also admitted that the Gram Panchayat, Thaluh, (lower) was the owner of the land in question and it was a matter of record. It was also admitted that on 27.06.2020, the land in question was taken by the petitioners on lease in an open auction. However, the petitioners ploughed the land in question on the same day, in which, the maize crop was sown by respondent No. 2. Thus, the FIR was correctly registered against the petitioners as they had destroyed the maize crop of respondent No. 2.

5. I have heard the learned counsel for the parties and perused the record.

6. In the present case, the FIR was registered against the petitioner under Sections 447, 506 and 34 IPC. From a perusal of the FIR (Annexure P-1), it has been mentioned when the complainant tried to stop the petitioners, they threatened him and stated that they had cultivated the land and he may do whatever he wanted to. In the

present case, even though, the complainant has alleged that a threat was extended by the petitioners, however, no overt act followed the threat. Such fake threats can never be termed as “criminal intimidation”. Even otherwise, this Court has held in the matter of

Usha Bala Vs. State of Punjab 2002(3) RCR Criminal as follows:-

“A perusal of the FIR, Annexure P-2, shows that it is mentioned in it that the petitioner unnecessary interfered in their married life and had given threats to finish her. Counsel for the petitioner contended that the petitioner had never given any threats and she was not in a position to give any threat and in fact she had got nothing to do with the married life of Som Nath and respondent No. 2. It appears that the petitioner had been named only due to some jealousy or mis-understanding. Empty threats does not prima-facie mean that the case under section 506 Indian Penal Code is made out against the petitioner. Hence, in face no case is made out against the petitioner”.

7. In the present case, the petitioners have been charged for committing the offence under Section 447 IPC. Section 441 IPC defines criminal trespass and the same is reproduced as under:-

441. Criminal trespass.—*Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy*

any such person, or with intent to commit an offence, is said to commit "criminal trespass".

8. From the admitted facts of the present case, it is evident that the land in question was owned by the Gram Panchayat, village Thaluh (lower), Tehsil Nangal, District Rupnagar, as per the jamabandi for the year 2015-16 (Annexure P-2). Even, the State of Punjab has not denied the said fact. Apart from that, earlier the land in question was taken on lease by the complainant since last several years. However, the time period of the lease deed expired on 03.06.2020 and legally, the land had already reverted to the Gram Panchayat village Thaluh (lower), Tehsil Nangal, District Rupnagar, on the expiry of the lease period on 03.06.2020. Admittedly, the auction proceedings had taken place on 13.06.2020. However, due to certain reasons the auction could not be held on the said day and was rescheduled for 27.06.2020. Even from the auction proceedings and the receipts (Annexures P-10 and P-11), it was apparent that the land in question was taken on lease by the petitioner No. 1, being the highest bidder. Still further, it is admitted case of the prosecution as well as accused that the petitioner had ploughed the land in question. Apart from that, the petitioner had also filed a civil suit for permanent injunction (Annexure P-12) against the complainant and Gram Panchayat and vide order dated 18.07.2020 (Annexure P-13), the Court of Additional Civil Judge (Senior Division) Nangal found a *prima facie* case in favour of the petitioners and the parties were

directed to maintain the status quo. Thus, it is apparent when the complainant was not in possession of the land in question, he had no *locus standi* to get the FIR registered against the petitioners for criminal trespass. As per the record, the complainant was neither owner of the land nor he was in possession of the land in question as his lease period has already expired on 03.06.2020, i.e., much prior to the date of occurrence. Even otherwise, it is apparent from the nature of allegations in the FIR (Annexure P-1), the dispute involved in the present case is of civil nature and has been given the cloak of criminal offence. Even otherwise, when the petitioners have already resorted to civil remedy, this Court should quash criminal proceedings to prevent the abuse of process of the Court.

9. In view of the above discussion, the present petition is allowed and the FIR No. 0096 dated 01.07.2020 registered under Sections 447, 506 and 34 IPC at Police Station Anandpur Sahib, District Rupnagar (Annexure P-1) and all other consequential proceedings arising therefrom are ordered to be quashed.

11.12.2023

amit rana

(N.S.SHEKHAWAT)

JUDGE

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