

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30957-2017
Date of Decision : 12.05.2023

Rajvir Singh

..... Petitioner

Versus

Tarlochan Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Kanwar Pahul Singh, Advocate
for the petitioner.

Mr. Vaibhav Narang, Advocate
for the respondent.

VIKRAM AGGARWAL, J

The present petition has been preferred under Section 482 of the Code of Criminal Procedure for setting aside the order dated 13.10.2015, passed by the Judicial Magistrate Ist Class, Amritsar vide which only charge under Section 506 IPC was framed against the respondent-accused and the order dated 14.09.2016, passed by the Addl. Sessions Judge, Amritsar vide which the revision petition filed by the petitioner against the order dated 13.10.2015 was dismissed.

The facts, in brief, are that the present petitioner filed a complaint under Sections 452/379/380/506 IPC against respondent Tarlochan Singh son of Diwan Singh. The case of the petitioner was that one Tarlochan Singh son

of Gurcharan Singh was a tenant in property bearing No.1339/2, situated at Gali Tellian, Bazar Bakarwana, Amritsar at a rent of Rs.1500/- per month. The said tenant was ejected by the petitioner by way of an ejectment petition. This order became final and possession of the property was

obtained by the petitioner through the Court. On 17.06.2012, at about 8:00 p.m. when the petitioner visited the said property, he saw respondent Tarlochan Singh (present respondent) alongwith two other persons present at the property. They had broken open the lock forcibly and had trespassed into the said property. When an objection was raised by the petitioner, he was threatened with dire consequences and was also threatened that he would be killed. A fist blow was also given by the respondent. When the petitioner raised an alarm, two persons namely Vijay Kumar and Ramesh Singh came to the spot and saved the petitioner. The respondent and two other persons took away the articles lying in the premises.

After the preliminary evidence, the respondent was summoned under Sections 452, 380 and 506 IPC.

Pre-charge evidence was led and vide order dated 13.10.2015, only charge under Section 506 IPC was framed against the respondent.

A revision petition was filed against the said order which was also dismissed, leading to the filing of the present petition.

I have heard learned counsel for the parties and have perused the paper book.

Learned counsel for the petitioner submits that the trial Court erred in framing charge only under Section 506 IPC and the Additional Sessions Judge, Amritsar erred in dismissing the revision petition. It has been submitted that cogent evidence had been led by the petitioner and both the Courts below ignored the cogent evidence and dealt with the matter in a casual manner. Learned counsel referred to the orders, passed by the trial Court as also by the Additional Sessions Judge, Amritsar and submitted that these orders are not sustainable.

On the other hand, learned counsel representing the respondent submitted that there is no illegality or infirmity in the orders passed by the Courts below. It has been submitted that the petitioner is the nephew of the respondent and the father of the petitioner namely Balbir Singh and respondent are the co-owners of the property in dispute. It has been argued that under the circumstances, the respondent could not be said to have trespassed into the property. Learned counsel has submitted that the Courts below rightly affirmed that there was no possibility of the articles like table, chairs, cooler, fan etc. having been picked up by the respondent and having been taken away by him. It has been contended that the orders passed by the courts below do not suffer from any illegality and deserve to be affirmed.

I have considered the submissions made by learned counsel for the parties.

The complaint (Annexure P-1) was filed by petitioner Rajvir Singh against respondent Tarlochan Singh. There is some confusion with regard to the name of the respondent and the tenant in the property. Both are

Tarlochan Singh. However, the tenant is Tarlochan Singh son of Gurcharan Singh, who was evicted and the present respondent is Tarlochan Singh son of Diwan Singh. It is the case of the petitioner that after he had obtained possession of the property in dispute, the respondent with his two accomplices forcibly broke open the lock of the property on 17.06.2012 and took away certain articles while extending threats to him. The Courts below rightly held that the father of the petitioner namely Balbir Singh was the co-owner of the property in dispute alongwith the owner Tarlochan Singh son of Diwan Singh and nothing had been placed on record by the petitioner to even prima facie show that he was in exclusive possession of the property in dispute. Once this had not been proved, no offence would be made out under Section 452 IPC and, therefore, the trial Court rightly did not frame any charge under Section 452 IPC. In so far as Sections 379 and 380 IPC are concerned, apart from the bald statement that the respondent alongwith his accomplices had taken away the articles which included chairs, table, cooler, fans etc., no evidence was led. No doubt, charges can be framed if a prima facie case is made out. However, at the same time, a prima facie case should be made out and charges cannot be framed on mere assumptions and presumptions or on the mere bald statements of the complainant and the witnesses. The Courts below, therefore, rightly did not frame any charge under Sections 379 and 380 IPC also. It was rightly found that the allegations did not disclose even a prima facie case. The Courts below rightly framed the charge under Section 506 IPC only as the respondent is alleged to have given threats to the petitioner that he would be eliminated. No other evidence could

have been produced to even prima facie prove this fact and only the statement of the petitioner was sufficient.

In the considered opinion of this Court, the Courts below did not commit any illegality in framing charge under Section 506 IPC alone and also in dismissing the revision petition filed against the order dated 13.10.2015.

In view of the above, I do not find any merit in the present petition and the same is, therefore, dismissed.

(VIKRAM AGGARWAL)
JUDGE

12.05.2023
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No