

2023:PHHC:153862

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

CRM-M-36641-2018

Date of decision : 22.11.2023

Pritam Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Varun Jain, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Prayer is for setting aside order dated 21.11.2016 passed by Additional Sessions Judge, Sangrur affirming the order dated 06.08.2016 passed by SDJM, Moonak discharging the respondent-accused.
2. Brief facts of the case are that petitioner-complainant alongwith one Binder Singh purchased house in village Karail from Jagtar Singh son of Santa Singh. The house was locked. One key of the house was with Jagtar Singh and other was with the complainant. He claimed that about 15 days back when he visited the house, he found that lock was broken. One room of the house stood demolished. The girders, bricks and other household articles were stolen by the accused. The accused did not allow the complainant to enter the house and threatened to kill him as they were armed with weapons.

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3. At the stage of framing charge, trial Court found that the house was owned by Santa Singh and his sons in equal share to the extent of 1/6 each. There was no evidence to prove that the petitioner-complainant was in exclusive possession of house. The accused being co-sharers cannot be said to be trespassed in the property. So far as the articles of mis-appropriation are concerned, there was no bill/invoice on record. The trial Court thus found that the matter in fact was a civil dispute as the dispute related to possession of the house. Thus, the Court held that the evidence being discrepant, no *prima facie* case was made out to frame charges against the accused and ordered their discharge.

4. Revisional Court affirmed the aforesaid order holding that in the absence of any evidence to suggest that the complainant was in exclusive possession of the property in hand, no *prima facie* case was made out against the accused.

5. Learned counsel representing the petitioner is not in a position to controvert that the evidence with respect to exclusive possession of the petitioner over the house in question is missing.

6. In view of above, this Court does not find any reason to interfere in the present petition. Resultantly, the same is dismissed.

(PANKAJ JAIN)
JUDGE

22.11.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No