

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

CRM-M-37989-2015

Date of Decision : December 04, 2023

RAJA RAM NAGPAL AND ANR

-Petitioners

V/S

KEWAL KRISHAN NAGPAL

-Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Anand Chhibber, Sr. Advocate with
Ms. Ateevraj Sandhu, Advocate
for the petitioners.

Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate
Mr. Gurjas Gill, Advocate and
Mr. Kunal Jundia, Advocate
for the respondent.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 482 of the Cr.P.C., a prayer is made for quashing of Complaint bearing No.COMI/187/2014 (Annexure P-1), under Sections 419/420/468/471/120-B of the IPC, titled as “Kewal Krishan Nagpal V/s Raja Ram Nagpal and others”. A further prayer is also made for quashing the summoning order dated 21.08.2015 (Annexure P-2), as passed by the learned Magistrate concerned.

2. At the very outset, the learned senior counsel appearing for the petitioners intimates this Court that, during the pendency of the instant petition, the demise of petitioner No.1 has occurred on 23.11.2019. Therefore, the instant petition is rendered abated qua petitioner No.1.

3. This Court, on 18.07.2016, before issuing notice of motion upon the instant petition, had made the hereinafter extracted order:-

“Petitioners seek quashing of the criminal complaint and summoning order passed by Chief Judicial Magistrate, Fazilka on 21.08.2015.

Counsel for the petitioner will satisfy this Court as to why the revision petition could not have been filed against the summoning order questioning the propriety and illegality of the summoning order.”

4. Thereafter, this Court, upon being satisfied that the instant petition warrants interference, had issued notice of motion on 07.04.2017.

5. The learned senior counsel appearing for the petitioner, in his asking for the relief(s) (supra), submits that even if the allegations are taken to be gospel truth, yet no offence whatsoever is made out against the petitioner No.2. Even otherwise, the complaint (supra) has been made after lapse of approx. 31 years of the alleged transaction and that too by a person, who has no concern with the alleged transaction. The fulcrum of the complaint (supra) hinges upon a Rapat Roznamcha, which discerns the redemptions being made of the land in question, which was mortgaged to one Smt. Karam Bai for Rs.30,000/-. Moreover, a perusal of the said Rapat Roznamcha makes it apparent that the petitioner No.1 is depicted therein to be the person, who had produced the relevant receipt before the revenue authority concerned, for thereby submitting that the land in question has been redeemed upon payment of Rs.30,000/- to the mortgagee Smt. Karam Bai.

6. The learned senior counsel appearing for the petitioners further submits that since the land in question had travelled from its original landowner one Kishore Chand, through his G.P.A. one Mangat

Rai, to the petitioner No.1, therefore, the petitioner No.2 does not have any concern with the alleged transaction, as he is subsequent beneficiary, who acquired the land in question by virtue of inheritance. The petitioner does not have any concern with regard to redemption of the land in question, which is alleged to be based upon a forged document.

7. Addressing further arguments, the learned senior counsel for the petitioners has vociferously argued that the complainant, in the complaint (supra), did not have any *locus standi* to file the complaint (supra), as he did not suffer any wrongful loss. Moreover, there is not an iota of evidence to suggest that the complainant concerned has been deceived by the petitioners.

8. The learned senior counsel appearing for the petitioners, in furtherance of his arguments, has placed reliance upon six inquiry reports, as conducted by the investigating agency, where through, the petitioners were exonerated from commission of the alleged offences. However, the learned trial Court concerned, while making the impugned summoning order (supra), did not take the said inquiry reports into consideration.

9. Per contra, the learned senior counsel appearing for the respondent has placed on record a copy of order dated 24.11.2023, as drawn upon the complaint (supra), to contend that the trial has already concluded, as the case is now fixed for defence evidence and arguments before the learned trial Court concerned.

10. The learned senior counsel appearing for the respondent has also placed on record a copy of order dated 17.01.2023, as made by a Coordinate Bench of this Court, upon CRM-M-10917-2022 (O&M), titled

as “*Sanjeev Nagpal V/s Deepak Nagpal and another*”, wherein, the hereinafter extracted order was passed:-

“CRM-1780-2023 has been filed for staying the proceedings before the trial Court in Complaint No.187 dated 11.09.2014.

Counsel for respondent No.1 submits that the prosecution evidence has been concluded and the matter is now fixed for statement of accused under Section 313 CrPC.

At this stage, counsel for the petitioner submits that given the development in the interregnum, he would be contended and satisfied in case the petitioner is directed to appear through his counsel on all dates before the trial Court.

Prayer being genuine is accepted.

In view of the above, main petition which is listed for 22.05.2023 is taken up on board today itself i.e. 17.01.2023.

Petitioner is permitted to appear through his counsel except the date of pronouncement of final judgment and he shall not claim any prejudice for proceedings recorded in his absence. It is clarified that the petitioner shall not seek any adjournment. It is further clarified that in case, instructions imparted to the respondent's counsel are factually incorrect, liberty reserved to the petitioner to file a fresh petition for quashing and at that time, disposal of the present petition shall not come in his way.

Petition is disposed of in the terms mentioned above. Pending applications, if any, stand disposed of.”

10. I have heard the learned senior counsels appearing for the contesting parties and perused the entire record available before me. However, I am not inclined to grant the asked for relief(s) (supra). The reason being that the complaint (supra) is now fixed for defence evidence

and arguments, therefore, at such advanced stage, this Court refrains from interfering in the present matter, where a prayer is made for quashing of the impugned summoning order, which was drawn way back in 2015.

11. However, this Court deems it appropriate to direct the learned trial Court concerned to pass a final verdict upon the complaint (supra), after taking into consideration all the pleas, as raised by the petitioner herein before this Court.

12. Disposed of accordingly.

December 04, 2023
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(KULDEEP TIWARI)
JUDGE

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