

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M No.39614 of 2014 (O&M)

DATE OF DECISION: 16th NOVEMBER, 2023

Parampal Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab with
HC Sukhpal Singh.

Mr. Dinesh Nagar, Advocate,
for respondent No.2.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of FIR No.40 dated 09.04.2014 registered under Sections 448, 427 and 34 IPC at Police Station Model Town, Ludhiana (Annexure P-9) and all the subsequent proceedings arising therefrom.

2. The facts, as alleged in the case, are that respondent No.2/complainant lodged the FIR against the petitioner alleging therein that he is owner in possession of a plot measuring 480 square yards, situated at village Jawaddi, District Ludhiana. In the two rooms of said plot, the electricity meter was installed. The petitioner along with Raghvir Singh, Gurnam Singh and some other unidentified persons, on the basis of wrong sale deed and despite stay order of the Civil Court,

attacked upon the complainant party and had forcibly broken down the lock of rooms and turned them out of the plot. Amrik Singh in whose favour the complainant had issued general power of attorney, was arrested in a false case qua the property despite the fact that there was a stay order in favour of the complainant. At the time of registration of case, the complainant withdrew the aforesaid GPA and had executed a fresh GPA in favour of one Santokh Singh. It is further alleged that the police had been colluding with the petitioner and others. The complainant had approached the police for reporting the matter many times, but to no avail. An *ex-parte* inquiry into the matter was conducted by ADCP Harash Bansal. Thereafter, the inquiry was marked to DSP Paramjit Singh Punnu in which he asked the parties to get the land demarcated jointly. Then, the concerned Tehsildar appointed a retired Naib Tehsildar for conducting the demarcation. During demarcation, no khasra number of Parampal Singh was found there. After that, the Commissioner of Police Ludhiana, marked the inquiry to DSP Balraj Singh Sahnewal. The opinion of District Attorney, Legal was also obtained, who had given the opinion on the *ex parte* inquiry of ADCP Harsh Bansal. Accordingly, FIR No.40 dated 09.04.2014 registered under Sections 448, 427 and 34 IPC at Police Station Model Town, Ludhiana (Annexure P-9) was registered.

3. After the above said FIR was registered, the petitioner had approached this Court through the present petition. The proceedings in the matter were stayed by this Court. Therefore, the challan was not filed by the police. Although, a perusal of the order sheets shows that vide order dated 15.07.2022, the earlier order regarding stay of proceedings

was modified, however, it is obvious that the said order was passed because the correct information qua non-filing of challan by the police was not brought to the notice of the Court. As a result, the matter is at the stage of investigation only due to pendency of the present petition for the past nine years.

4. Arguing the case, learned counsel for the petitioner has submitted that the dispute is purely civil in nature. The complainant had failed even in the civil suit filed by him. Since, the present petition is filed on the presumption that the complainant was in possession and that presumption has not been found to be correct by the Civil Court, therefore, the present FIR deserves to be quashed. Moreover, the petitioner had purchased the property in the year 1994 and the complainant had purchased the property in the year 2006. Therefore, the petitioner cannot be alleged to have been in illegal possession or having trespassed over the property of the complainant. The property is belonging to the petitioner only.

5. On the other hand, learned State counsel, being instructed by HC Sukhpal Singh and being assisted by learned counsel for respondent No.2/complainant has submitted that the challan in the matter is ready, however, the same could not be filed because of the interim order passed by this Court. As per the investigation conducted so far, the complainant was found to be owner in possession of the property in question. Not only that, an electricity meter was found to be installed on the premises in question; in the name of complainant-Gurbachan Singh Saggu. Therefore, the police have rightly registered the FIR.

6. Learned counsel for respondent No.2-complainant has also submitted that the civil dispute had nothing to do with the present criminal case. The alleged civil suit was only a suit for injunction filed by the complainant which had not found favour with the trial Court. However, there was no declaration qua the title or possession over the property; in favour of the petitioner, as well. Therefore, the petitioner cannot assert that he was in possession of the property. Moreover, the complainant-Gurbachan Singh Saggu is having an electricity meter installed on the premises; since the time immediately after the purchase of the property by Gurbachan Singh Saggu in the year 2006. There are electricity bills of said meter pertaining to the year 2006-07; which have been duly supplied by the complainant to the police. Therefore, the possession of the complainant cannot be outrightly rejected. Hence, the allegation of trespass into the property of the complainant cannot be discarded at this stage. Everything is subject-matter of the evidence; to be led before the trial Court. The complainant shall prove all the necessary facts before the trial Court. Therefore, the FIR does not deserve to be quashed.

7. Having heard learned counsel for the parties and having perused the record, this Court finds that although there had been civil litigation between the parties, however, that was only a suit filed by the complainant for injunction, which was decided against him. Although, there has been a claim regarding the possession on the part of the petitioner, as well, however, he has not even filed any suit seeking declaration of his title or possession, as such. Therefore, mere dismissal of the civil suit filed by the complainant would not, necessarily, establish

the fact that the petitioner is in possession of the property. Moreover, there is assertion of another government agency, as per their record, which is showing that the electricity meter is installed on the premises in the name of the complainant; and the complainant has paid the bills for that electricity meter for the period, as back as since the year 2006 and 2007. Accordingly, the case involves highly disputed questions of facts. The proceedings under Section 482 Cr.P.C. are best avoided in a case where the disputed questions of facts are involved. Hence, this Court does not find it appropriate to interfere in the matter.

8. Accordingly, the present petition is dismissed.
9. However, the petitioner would be at liberty to avail all the legally available pleas before the trial Court, during the trial, if any.
10. The pending miscellaneous application, if any, is also disposed of; as such.

16th NOVEMBER, 2023
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(RAJBIR SEHRAWAT)
JUDGE

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