

CRM-M-47101 of 2017

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-47101 of 2017

Date of decision : December 04, 2023

Gurmail Singh

....Petitioner

VERSUS

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Sandeep S. Majithia, Advocate, for the petitioner
Mr. Chetan Sharma, DAG, Haryana

KULDEEP TIWARI, J. (ORAL)

1. The present petition has been filed, invoking the inherent powers envisaged under Section 482 Cr.P.C., for quashing of private complaint No. 06 dated 17.1.2017, filed under Sections 323, 341, 420, 506 IPC, Police Station Sadar Dabwali, as well as summoning order dated 9.3.2017, whereby the petitioner was ordered to be summoned to face trial.

2. Before I evince any opinion upon the submissions made by the learned counsel for the petitioner, it is essential at this stage to examine the allegations as levelled in the private complaint, in which the present petitioner has been summoned.

3. The instant complaint was filed by respondent no. 2- Balkaran Singh, on the allegations that the sister of the present

petitioner namely Amarjit Kaur, daughter of Mukhtiar Singh entered into agreement to sell dated 5.6.2009, with the mother of the complainant, namely-Smt. Baltej Kaur. The land which was sold to the mother of the complainant, was inherited by Amarjit Kaur, sister of the present petitioner, and Bachan Kaur mother of Amarjit Kaur and present petitioner, after the death of Mukhtiar Singh, (father of the present petitioner and Amarjit Kaur) vide mutation Nos. 2431, and 3253, respectively. Due to the said purchase of land by the complainant, the present petitioner was nursing a grudge against the complainant. There was a civil suit pending *inter se* the parties. On the date of occurrence, the complainant and his mother, were present on the purchased land, the accused suddenly came there and started threatening the complainant with a *Gandasi*, and told the complainant to move out of the said land. The complainant while reacting to the above said situation, informed the accused to refrain from his act, as there is *status quo* in regard to the said land, as granted by the civil court, even then the accused did not mend his way, rather he boasted that no body can harm him, as he lives with two identities, and people of the village Panniwala Ruldu, Tehsil Dabwali, know him as son of Mukhtiar Singh, whereas, in Punjab his identity is of legal heir of Arjan Singh Pardesi, and he possesses two Adhaar cards, Pan Cards, Voter Cards, Passports and Arms Licence, and therefore, no body can harm him, as he lives with dual identity. Thereafter, the complainant made inquiries on his own level

with regard to the factum of dual identities as revealed by the accused, and it was found that the accused has got issued Vote No. 261, Identity Card number of the same is JYK7322597, in the name of Gurmail Singh, son of Arjan Singh, and Vote No. 262, Identity Card number of the same is JYK7322720, in the name of wife of accused namely Inderjit Kaur at Vishal Nagar, Ludhiana. In this manner, the accused has obtained dual identities and committed a serious offence. The accused is well aware of the fact that having dual identities on the basis of false and fabricated facts and using the same like original, is a penal offence. Thereafter, a complaint was filed by the complainant against the present petitioner.

4. Thereafter, in preliminary evidence, the complainant himself got examined as PW1 and reiterated the version of the complaint. He also tendered into evidence, copy of marriage invitation card as Mark- P1, copy of voter card list as Mark-P2 & Mark-P3, copy of Electoral Detail as Mark-P4, copy of MLR as Mark-P5, copy of site plan as Mark-P6 copy of order dated 08.07.2015 as Mark-P7, copy of voter card list as Mark-P8 & Mark-P9, copy of mutation No. 2431 as Mark-P10, copy of mutation No. 3253 as Mark-P11, copy of mutation No. 3254 as Mark-P12, copy of rapat No. 311 as Mark-P13, copy of rapat No. 310 as Mark-P14, copy of rapat No. 380 as Mark-P15. Another witness namely Lakhbir Singh PW2 also supported the version of the complainant.

5. After considering the oral as well as documentary

evidence, the petitioner was ordered to be summoned by the learned trial court concerned vide impugned order dated 9.3.2017 to face trial for the offences punishable under Sections 323, 341, 420, 506 IPC.

6. The learned counsel for the petitioner, in order to throw challenge to the summoning order, submits that the present complaint is an outcome of malicious prosecution as both the parties have civil as well as criminal litigation pending between them. He draws the attention of this Court, to the judgment passed on dated 16.4.2014, whereby, the complainant party was convicted and sentenced for a period of one year on a complaint made by Jarnail Singh, servant of the petitioner. He further submits that Amarjit Kaur, the uterine sister of the petitioner has illegally transferred the land in favour of the mother of the complainant, and an appeal is pending before the learned Additional District & Sessions Judge, Sirsa, whereby, the restraint order has been passed against Amarjit Kaur, not to alienate the suit land. However, despite the specific order, the land was transferred in the name of the mother of the present complainant. He further submits that the instant complaint is filed with an ulterior motive, as a counter-blast to the litigation initiated by the petitioner against the complainant, with a view to pressurize the petitioner, and his siblings, to illegally allow the complainant to enjoy the land purchased by him in the name of his mother, at a throw away price. He further submits that the petitioner

is a physically handicapped person, and is suffering from accidental injuries, and has undergone various surgical interventions, therefore, he is unable to fight with respondent no. 2, and inflict injuries to him.

7. Learned counsel for the petitioner has also placed reliance on **Vishnu Kumar Shukla @ Anr. Vs The State of Uttar Pradesh & Anr., Criminal Appeal No. 3618 of 2023, decided on 28.11.2023**, to submit that until and unless, there is strong and grave suspicion of being involved in the crime, the learned trial court concerned should not have summoned the petitioner as an accused to face the trial.

8. This Court examined the complaint as well as summoning order. The grounds which are raised by the petitioner through the instant petition are totally disputed questions of facts, which cannot be adjudicated upon through the instant motion by this Court. This required adduction of evidence before the learned trial court concerned, and only after adduction of the evidence, the learned trial court concerned would appreciate the veracity of the allegations, and counter allegations as levelled by the petitioner, and the complainant. The learned trial court concerned, after considering documentary as well as oral evidence has ordered to summon the present petitioner to face the trial. There is enough evidence which are sufficient in nature to summon the present petitioner, to put the petitioner for facing the trial. Therefore, this Court is not inclined to interfere in the impugned summoning order,

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and refrain to appreciate the facts as disclosed by the petitioner through the instant petition.

9. In sequel to the aforesaid, the instant petition is **dismissed**. The summoning order dated 9.3.2017, passed by the learned Sub Divisional Judicial Magistrate, Dabwali, is ordered to be **upheld**.

December 04, 2023
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(KULDEEP TIWARI)
JUDGE

<i>Whether speaking/reasoned ?</i>	Yes/No
<i>Whether Reportable ?</i>	Yes/No