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

CRM-M-25427-2023

Date of Decision: 04.07.2023

Gurjit Bawa

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Shubham Thakur, Advocate
for the petitioner.

Mr. Dhruv Dayal, Addl. A.G., Punjab.

ARUN MONGA, J. (ORAL)

Petition herein is for quashing FIR No.4 dated 03.02.2019,
under Sections 448, 120-B IPC, registered at Police Station NRI Kapurthala.

2. Notice of motion.

3. On the asking of Court, Mr. Dhruv Dayal, Additional Advocate
General, Punjab accepts notice on behalf of respondent No.1-State and
opposes the petition.

4. Succinct facts as pleaded in the petition are that Kishan Kishore
Sharma, father of complainant Abhishek Sharma had leased out his shop
situated at Mohalla Sukhjit Nagar, Pandit Devi Dyal Market, Kapurthala,
Punjab vide rent deed dated 23.10.1996 (Annexure P-1) to one Narender

Kalia. On 09.10.2017, father of complainant expired, leaving behind the complainant and his sister. However, Narender Kalia, continued to deposit the rent of the said shop in the account of father of complainant. On 20.05.2018, Narender Kalia went to U.S.A to work there. Said shop was being run as mobile repair electrical shop by Narender Kalia but he left it in the hands of present petitioner as its caretaker. No business was carried out by the present petitioner in the said premises.

4.1. Complainant after coming to know that Narender Kalia has left and went abroad, started to pressurize the petitioner to hand over the possession of shop to him stating that after the death of his father it was registered in his name vide registered deed dated 27.02.2018. Petitioner later on came to know that the complainant had given a complaint in the NRI Wing, Jalandhar on 30.11.2018 against the petitioner stating that he was unlawfully occupying the shop. However, Narender Kalia, on the other hand approached the Ld. Civil Court vide Civil Suit No.633 of 2018 seeking an injunction restraining the complainant from taking forcible possession of the said shop in question.

4.2. Ld. Civil Court vide order dated 21.12.2018 (Annexure P-6) allowed the application under Order 39 Rules 1 & 2 CPC, whereby it was ordered that plaintiff/Narender Kalia shall not be dispossessed other than with due process of law.

4.3. Subsequently, the present complainant on 09.01.2019, filed petition (Annexure P-7) under Section 24 of Punjab Rent Act, 1995, for ejectment of Narender Kalia, before the Ld. Rent Controller, Kapurthala.

Said petition was filed only against Narender Kalia and that the petitioner was not, at any stage, impleaded as party to the said petition.

4.4. After filing of the said rent petition, the complainant subsequently got the aforesaid FIR registered without disclosing the pendency of present proceedings. Petitioner cooperated in the investigation of the said complaint. Pursuant thereto, challan (Annexure P-9) was filed on 25.11.2019. Petitioner is admitted on bail by Ld. Trial Court itself. Subsequently, the charges were framed against the petitioner under Sections 448 and 120-B IPC by Ld. Trial Court vide order dated 03.01.2020 (Annexure P-11).

5. Learned counsel for petitioner would argue that possession of the said premises is still with the tenant – Narender Kalia and not the complainant-landlord. Therefore, no criminal case is made out against the petitioner under Sections 448 and 120-B IPC and that registration of FIR is merely misuse of process of law.

6. In the course of hearing, learned State counsel upon instructions from ASI Gurmail Singh submits that criminal trial is likely to soon get over as out of 9 witnesses 6 have already been examined.

7. Being so, I am of the view that it is not appropriate to quash FIR at this advanced stage of trial.

8. Dismissed. However, it is made clear that dismissal of this petition shall not come in the way of petitioner to take defense before Ld. Trial Court as has been taken before this Court.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 04, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No