

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CRM-M-15021-2017**

**Date of Decision:-18.03.2024**

**Ram Parkash (since deceased) through Taro Devi.**

.....Petitioner.

Vs.

**Sucha Singh & Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Ramesh Sharma, Advocate for the Petitioner.

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**JASJIT SINGH BEDI, J.(ORAL)**

The Prayer in this petition under Section 482 Cr.PC is for setting aside the order dated 16.11.2016 (Annexure P-4) passed by Additional Sessions Judge, Rupnagar vide which the revision petition filed against the order dated 30.01.2013 passed by Sub Divisional Judicial Magistrate, Anandpur Sahib was dismissed.

2. The brief facts of the case are that a criminal complaint came to be instituted at the instance of the petitioner/complainant with the allegations against respondents/accused no.1 & 2 that on 11.01.2005 both the accused had wrongfully and illegally entered into the property of the complainant bearing Khasra No.49 and had dismantled the wall which was being raised by the complainant at a particular point in the proposed room.

3. After leading of the preliminary evidence, the respondents/accused nos.1 & 2 came to be summoned to face trial under

Section 427 and 506 IPC. Ultimately the respondents/accused no.1 & 2 were discharged by the court of SDJM, Anandpur Sahib vide order dated 30.01.2013 (Annexure P-2).

4. A revision petition was preferred against the said order of discharge which came to be dismissed by the court of Additional sessions Judge, Anandpur Sahib vide judgment dated 16.11.2016 (Annexure P-4).

5. The aforementioned judgements are under challenge in the present petition.

6. The Counsel for the petitioner contends that the courts below had committed a grave error of law while discharging the accused/respondents nos.1 & 2 in the complaint filed by the petitioner/complainant. The Courts below did not consider the fact that at the time of framing of charges only a *prima facie* case was to be seen regarding the offence having been committed and therefore, the charges ought to have been framed. The Courts had erroneously examined the evidence in detail without putting the accused to trial and had discharged them. In fact the respondents/accused had dismantled the wall belonging to the petitioner/complainant and the ownership of the area was well proved by him. Information had also been given to the police which did not take action in accordance with law and because of which a complaint had to be instituted. He, therefore, contends that the impugned orders were liable to be set aside and the respondents/accused were liable to be chargesheeted in accordance with law.

7. I have heard learned learned Counsel for the petitioner.

8. A perusal of the record would reveal that the material documents in the complaint are the sale deeds in favour of the

petitioner/complainant, copies of *jamabandies* of Khasra nos.51, 52 & 49 along with *aks shijra* of those khasra numbers. The claim of the petitioner/complainant that he was in possession of the *Bachat* land measuring 5/6 marlas is not borne out from the record as he has not produced any such document showing possession. An inquiry report dated 26.09.2005 was prepared by the investigating agency as per which it had been found that the accused had not demolished any wall. In fact the site plan produced on record had no evidentiary value as it had not been based on admissible documents. The alleged occurrence is dated 11.01.2005 and the instant complaint came to be filed only on 21.04.2005. This inordinate unexplained delay creates serious doubt in the case of the petitioner/complainant, moreso when a civil suit is pending against the respondents/accused no.1 & 2 at the instance of the petitioner/complainant and the possibility of institution of the instant complaint to take advantage in the civil suit cannot be ruled out.

9. In view of the above, I find no merit in the present petition and the same stands dismissed.

( JASJIT SINGH BEDI )

JUDGE

March 18, 2024

Vinay

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |