

CRM-M-23130-2018
Date of decision: 13.02.2024

Karamjit Singh and othersPetitioners

Versus

Mitho and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Robin Gill, Advocate
for the petitioner.

Mr. H.P.S. Ghuman, Advocate
for respondent No.1.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking quashing of complaint No. COMI/72/2017, File No.72 dated 14.11.2017 under Sections 420/406/452/323/379/382/427/148/149/506 of IPC (Annexure P-7) and for setting aside the summoning order dated 30.01.2018 (Annexure P-8) passed by the learned Judicial Magistrate 1st Class, Nabha, along with all subsequent proceedings arising therefrom.

Learned senior counsel submits that the complaint (*supra*) was filed at the behest of Sarpanch on 13.11.2017 as petitioner No.2-Gian Kaur has made a complaint against the Sarpanch on 09.08.2017 before the Sub Divisional Magistrate, Nabha and vide order dated 24.10.2017, the concerned Sub Divisional Magistrate passed an order against the Sarpanch and directed him to pay the outstanding allowance to petitioner No.2 and on account of the

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same, the Sarpanch was nurturing a grudge against the petitioners and the delay in filing the complaint itself creates a serious doubt on the veracity of the allegation contained in the complaint as undisputedly, it has been alleged that on 21.05.2019, petitioners No.1 and 2 had obtained Rs.40,000/- from the respondent/complainant and there is no specific allegation against any of the petitioners in the entire complaint and the veracity of the allegations made by the complainant/respondent was examined by the concerned jurisdictional police authorities twice and on both occasions no police action was recommended and the complaint was ordered to be consigned to his office. On the other hand, learned counsel for respondent No.1 submits that the entire incident was recorded and the CD containing the recording of the incident was duly produced before the learned trial Court. The complicity of the petitioners in committing theft and trespass are clearly established and this Court cannot appreciate the disputed question of facts and consider the probable defence to quash the FIR (*supra*).

Having heard learned counsel for the parties and without commenting anything on the merits of the case lest it may prejudice the case of either of the parties, the present petition is disposed of with liberty to the petitioners to raise all the pleas taken in the present petition before the trial Court and keeping in view the age of the petitioners and the fact that some of the petitioners are household ladies and attending the trial on each and every date can cause inconvenience and hardship to them, in view of the ratio laid down by this Court in CRM-M-25963-2023 titled as 'Suresh Kumar and another Vs. The State of Haryana and another' 2023 (2) Law Herald 1498, the

personal appearance of the petitioners before the learned trial Court is ordered

to be exempted, subject to the following conditions:-

- i) petitioners shall be represented through their counsel;
- ii) shall not delay/stall the trial proceedings;
- iii) shall not dispute their identity as accused;
- iv) shall have no objection if the prosecution evidence is recorded in their absence but in the presence of their counsel;
- v) shall appear before the trial Court as and when required; and
- vi) any other condition, which the trial Court may impose.

Further liberty is granted to the parties to explore the possibility of an amicable settlement by moving an appropriate application before the learned trial Court.

(HARPREET SINGH BRAR)
JUDGE

13.02.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No