



CRM-M-30635-2023
Date of decision : 21.05.2024

....Petitioner

....Respondent

Mr. Mohit Kapoor, Sr. DAG, Punjab.

Present petition has been filed seeking quashing of FIR No.64 dated 5th of March, 2007 registered for the offences punishable under Sections 447, 511 and 323 of the Indian Penal Code, 1860 registered at Police Station Division No.8, District Jalandhar and all proceedings subsequent thereto.

2. Counsel for the petitioner submits that from the contents of the FIR it is evident that the matter was purely a landlord tenant dispute which has been given a colour of criminal nature. Only for the reason that the complainant happens to be President of Punjab Labour Union Mazdoor Shakti Sangh the FIR came into being. During investigation, it was found

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that no such incident ever took place and the cancellation report was filed. However, Illaqa Magistrate referred the matter back for re-investigation vide order dated 29th of August, 2008 only for the reason that the complainant suffered a statement that he is not satisfied with the investigation carried out by the police. Thereafter, again cancellation report was filed twice on 4th of October, 2019 and 2nd of September, 2022 but the same was rejected as the complainant was not traceable.

3. Counsel thus submits that it is a case wherein the petitioner is facing ordeal of the criminal prosecution for 17 years without trial. Repeatedly the police has found that no case is made out and the cancellation reports are being filed yet the same are not being accepted merely for the reason that the complainant was not traceable.

4. Short reply by way of affidavit of Daman Bir Singh, PPS, Assistant Commissioner of Police (North), Police Commissionerate, Jalandhar dated 21st of August, 2023 has been filed on behalf of respondent/State. The facts are not disputed.

5. I have heard counsel for the parties and have carefully gone through records of the case.

6. FIR was registered in the year 2007 alleging as under :

“To, The SHO, Police Station Division no. 8 Jalandhar.
Subject: Against the landlord of house regarding locking the house and beaten up even after passing the stay order by the Court. It is respectfully submitted that I, S. Kamal Hundal is the president of Punjab Labour Union Mazdoor Shakti Sangh, Punjab and for the

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last some days due to annoyed by the landlord of house, I have taken stay order from the Court. Today in the morning they have locked outside and on the asking of police tried to click the photographs then the boys who were engaged by them and from them Baldev Singh of Lamba Pind and with others boy accompanying him abused and beaten up me. These persons trying to take the forcible possession and also wants to break up the locks of our office. Legal action may kindly be taken against the accused and provide justice to me. Yours well wisher Ms. Kamal Hundal, president of Punjab Labour Union 92178-20206, 94174-72220.”

7. From the records of the case it is evident that the complainant is no more residing at the given address and the accused submits that she left the premises long back. For 17 years the petitioner is facing prosecution that too without trial only for the reason that the complainant is not traceable. Investigating Agency twice found that no offence was made out but the cancellation report was not accepted merely for the reason either that the complainant was not satisfied and thereafter for the reason that the complainant was not traceable.

8. In the considered opinion of this Court, pendency of the present prosecution against the petitioner after the investigating agency has found that no offence is made out, is nothing but an abuse of process of law and the same deserves to be quashed.

9. In view thereof, the present petition is allowed. FIR No.64 dated 5th of March, 2007 registered for the offences punishable under Sections 447, 511 and 323 of the Indian Penal Code, 1860 registered at

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Police Station Division No.8, District Jalandhar and all proceedings subsequent thereto qua the petitioner are quashed.

May 21, 2024
Dpr

(Pankaj Jain)
Judge

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