



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

CRM-M-38084-2024 (O&M)

Date of Decision: 30.08.2024

Jagminder Singh

...Petitioner

vs.

State of Haryana and others

...Respondents

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present : Mr. Sunil Kumar Dhanda, Advocate
for the applicant-petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

CRM-34406-2024

1. Application is allowed as prayed for, subject to just all exceptions.
2. Annexure P-7 is taken on record.

Main case

1. The petitioner has filed the present petition under Section 482 of Cr.P.C with a prayer to quash the order dated 13.05.2024 (Annexure P-6) passed by the Court of ACJM-cum-Civil Judge, Jhajjar, whereby, the prayer of the petitioner filed under Section 156 (3) Cr.P.C was declined and the Trial Court decided to proceed with the complaint by directing the petitioner to lead preliminary evidence.

2. Learned counsel for the petitioner contends that the petitioner had bought 5/6 acres of land in the name of his daughter and son-in-law. The petitioner permitted the respondent No.4 to conduct mining in one acre of land upto the depth of 04 feet at the rate of Rs.1,60,000/- per feet, after getting the permission from the Mining Department. All the documents were handed over



to respondent No.4 for complete the formalities. In June 2022, the petitioner visited the land and found that the mining had been done upto the depth of 05 feet in one acre of land. The petitioner confronted the respondent No.4, who admitted his mistake and apologized to him. The respondent No.4 assured that he will make the payment for the mining of the balance 01 feet of removal of the soil, however, no such payment was made. In September 2022, the petitioner tried to contact respondent No.4, but the respondent No.4 did not response to the calls made by the petitioner. Rather, respondent No.4 again sold the soil from the land of the petitioner. The petitioner met respondent No.4 before Diwali, but respondent No.4 threatened him with dire consequences. Ultimately, the petitioner had filed a complaint (Annexure P-1) with the SHO, Police Station, Dighal, District Jhajjar for taking action against the respondent No.4, but no action was taken. Thereafter, the petitioner came to know from the Mining Department that the respondent No.4 had got an agreement executed between them and the signatures of the petitioner were forged and fabricated. On the basis of the said signatures, the respondent No.4 got the permission for mining in the land of the petitioner. The petitioner again moved a written complaint against respondent No.4 before the Superintendent of Police, Jhajjar, but no action action was taken. Thereafter, the petitioner filed a complaint before the Trial Court and prayed for registration of a case under Section 156(3) Cr.P.C. However, the Trial Court declined the prayer and ordered the trial of the case as a complaint by directing the petitioner to lead preliminary evidence. The Trial Court had failed to appreciate that the provisions of 154 of Cr.P.C was



mandatory and the officer concerned was duty bound to register the case as the information provided by the petitioner clearly disclosed the commission of a cognizable offence. Even, the Magistrate overlooked the relevant aspect of the matter and wrongly declined the prayer under Section 156(3) Cr.P.C.

3. I have heard the learned counsel for the petitioner and perused the record carefully.

4. In the present case, the primary dispute between the petitioner and the respondent No.4 was with regard to the lifting of the soil from the fields of the complainant. Even, allegations pertain to the year 2022 and the complaint was filed in January, 2024 after a long delay. However, from the perusal of the facts of the case, it is apparent that in the present case, the Trial Court had rightly declined the prayer for registration of the FIR as no investigation is required and the facts could be proved by leading preliminary evidence by the petitioner. Even otherwise, no recovery was to be effected after such a long delay. Moreover, it appears that there was some agreement between the petitioner and respondent No.4 and as per the agreement, the respondent No.4 had allegedly breached the terms of the contract. Thus, the Trial Court was justified in declining the prayer made by the petitioner and the present petition deserves to be dismissed.

5. Dismissed.

(N.S.SHEKHAWAT)
JUDGE

30.08.2024
hitesh

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