

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-47230-2023

Date of Decision : 09.01.2024

SULAKHAN SINGH AND OTHERS

.....Petitioners

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Baldev Singh Sidhu, Advocate,
for the petitioners.

Mr. M.S.Bajwa, DAG, Punjab

KULDEEP TIWARI. J.(Oral)

1. The instant petition, as cast under Section 482 of the Cr.P.C., proffers the hereinafter extracted relief, as craved by the petitioners, inasmuch as, quashing of the FIR No.76 dated 13.07.2022, under Section 447, 511, 506 of the IPC, registered at P.S. Koom Kalan, District Ludhiana, and subsequent proceedings arising therefrom.
2. The prosecution agency was set into motion on a statement made by Nirmal Singh, Sarpanch. The relevant gist of the FIR reads as under:-

“Statement of Nirmal Singh sarpanch S/o Mukhtiar Singh R/o Mand Chaunta Mob.9789611226 stated that I am the resident of the above address and is present Sarpanch of the Village Chaunta. Our village have 62 Acre of Cultivable Panchayat land. That the possession of 52 Acre land was taken as per order dated 10-05-2022 of the Collector Revenue Department from Satnam Singh, Rana Singh, Amrik Singh, Jinder Singh, Ss/o Bain Singh, Janak Singh S/o Mani Singh, Sulakhan Singh, Tarlochan Singh Ss/o Janak Singh, Sarabjot Singh S/o Tarlochan Singh, Gurpreet Singh, Happy Singh Ss/o Sulakhan Singh Now the above persons accused Janak Singh with his Tractor Sawraj 735 and accused Sulakhan Singh Sawraj 855 and accused Satnam Singh with his tractor farm track 45 has cultivated this land and sown paddy about 10/11 days before.

Now slowly they are putting paddy in the rest of the land. Except this land Gurmail Singh S/o Krishan Singh, Happy Singh, Gola Singh, Sama Singh, Sukha Singh, Arjan Singh, Mintu Singh S/o Gurmail Singh, Bhola Singh S/o Ajaib Singh has forcefully taken possession of 8 acres of the land who has taken a time upto 15 June to vacate the land when we asked Gurmail Singh then his sons said if you will ask for vacating the land then we will kill you and this land is of our share. Regarding this possession application has been given to the Block Development and Panchayat officer Ludhiana -2 against them. Sd/- Nirmal Singh Sarpanch Village Chaunta, Sd/- Ranjit Singh SI Thana Koom Kalan District Ludhiana dated 13-07-2022.”

3. The instant relief has been sought on the ground that the civil writ petition, whereby, the dispute *qua* the land in question is pending before this Court for adjudication, therefore, parallel criminal proceedings are not maintainable.

4. Learned counsel for the petitioners draws, the attention of this Court towards Annexure P-4, which is the Jamabandi for the years 2018-2019 to submit that the land is of alluvion and diluvion in nature, therefore, the Panchayat has no concern whatsoever, with the land as it falls within the exclusivity clause of 'Shamlat Deh' as defined under Section 2(g) of the Punjab Village Common Land Act, 1961.

5. He further submits that one of the petitioners was a juvenile at the time of occurrence, therefore, present FIR is not maintainable.

6. This Court has considered the submissions made by learned counsel for the petitioners, and is unable to accept the submissions (*supra*), for the reasons that the land vests with the Gram Panchayat or not is a purely disputed question of fact, and above all this, this issue has already been settled upto the level of all the statutory authorities as prescribed under the Act of 1961, wherein the Gram Panchayat concerned, was held to be the owner of the land. Even as per Annexure P-4, which is a Jamabandi for the years 2018-2019, the Gram Panchayat

is recorded in the column of ownership.

7. The allegations against the petitioners, are that despite the warrant of possession having been executed and possession of the land in question was restored to the Gram Panchayat, the petitioners forcefully re-entered in the land in question, therefore, the penal offences for which the petitioners are facing trial have rightly been invoked.

8. The issue pertaining to present petition is that one of the petitioners is minor, and can only be adjudicated, in case an appropriate application is made before the appropriate Court concerned, however, that does not require the asked for relief.

9. All the issues, which have been raised before this Court are highly disputed question of facts, which cannot be adjudicated under Sections 482 of the Cr.P.C. Consequently, the instant petition is **dismissed**, however, liberty is granted to the petitioners to raise their plea before the learned trial Court concerned, at an appropriate stage of the trial.

January 09, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No