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THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.48832 of 2024
Date of Decision: 30.09.2024

Mukhtiar Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Nitin Gupta, Advocate
for the petitioners.

RAJESH BHARDWAJ, J. (ORAL)

1. Instant petition has been filed under Section 528 of BNSS, 2023 praying for quashing of FIR No.195, dated 28.08.2024, under Sections 326(b), 329(3), 351(2), 3(5) of BNS, 2023, registered at Police Station Kotwali Kapurthala, District Kapurthala (Annexure P-1) along with all consequential proceedings arising therefrom as the FIR in question is an abuse of the process, whereby a purely civil dispute has been given a criminal colour due to the influence of respondent No.7-complainant over the local police. Further prayer has been made that the respondents be restrained from taking any coercive steps against the present petitioners, which impinge upon the life and liberty of the petitioners under Article 21 of the Constitution of India and the



proceedings in the FIR in question (Annexure P-1) may be kept in abeyance as the registration of it is an abuse of the process of law.

2. The complainant-respondent No.7 lodged the present FIR on the basis of allegations that the petitioners have forcibly created a water channel through his passage and by taking the forcible possession, they had blocked his water channel. They allegedly came with *lathis* and *spades* and he was threatened with dire consequences. The request was made to take legal action against the accused.

3. Learned counsel for the petitioners has vehemently contended that from the bare perusal of the allegations made in the FIR, it is apparent that the dispute between the parties is of civil nature which has been given a colour of criminal case. He has submitted that the allegations are false and frivolous and are based on concocted version. He has submitted that as per the revenue record, it is evident that the petitioners are not in illegal possession of any land. He has submitted that respondent No.7-complainant took undue advantage of the illegal and forged alteration/manipulation in the revenue entry/record. He has submitted that respondent No.7-complainant along with his brother on the basis of forged revenue record tried to carve out the passage upon 02 marla land owned by the petitioners. He has submitted that on raising of objections by the petitioners, complainant lodged the present FIR against the petitioners. He has thus submitted that the petitioners have filed a civil suit titled as Mukhtiar Singh and others vs. State of Punjab etc., which is pending adjudication in the Court of learned Additional Civil

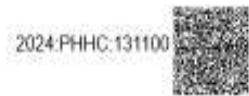


Judge (Senior Division), Kapurthala. He has thus submitted that in the facts and circumstances, the prosecution of the petitioners in the FIR is nothing but an abuse of the process of the Court and thus, the same deserves to be set aside.

4. Heard.

5. On hearing learned counsel for the petitioners and perusing the record, it is deciphered that the FIR in question was lodged on the basis of the allegations made therein. Though learned counsel for the petitioners has submitted that the dispute among the parties is of civil nature which has been given a colour of criminal nature and thus, the FIR is not maintainable in the facts and circumstances of the case. However there is no denial to the fact that the allegations made in the FIR are regarding the trespass and blocking of the water channel and threatening the complainant. It has been apprised to the Court that the case is under investigation and report under Section 173 Cr.P.C. is yet to be filed. Thus, it is evident that the case is under investigation. Though one of the aspect of the case could be of civil nature, however once the case is under investigation, this Court finds no ground to exercise its inherent powers in adjudicating upon the disputed question of facts.

6. Hon'ble the Supreme Court in the case of *Neeharika Infrastructure Pvt. Ltd. vs. State of Maharastra and another*, 2021 SCC Online SC 315 has held that the High Court should exercise the power of quashing under Section 482 Cr.P.C. sparingly with great



circumspection that too in the rarest of rare cases and also criminal proceedings ought not to be scuttled at the initial stage.

7. Hence, finding no merits in the main petition at this stage, the present petition is dismissed. However the Investigating Agencies are directed to complete the investigation expeditiously in accordance with law. Nothing said hereinabove shall have any bearing on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

30.09.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No