



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

CRM-M-38632-2012 (O&M)

Reserved on: 05.02.2025

Date of decision: 11.03.2025

Satvinder Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. N.K. Sharma, Advocate
for the petitioners.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

None for complainant/respondent No.2

KARAMJIT SINGH, J.

1. The instant petition has been filed by the petitioners seeking quashing of FIR No.61 dated 12.09.2012 (Annexure P-1), registered under Sections 379, 427, 448 IPC, in Police Station Nayagaon, District SAS Nagar (Mohali) and all the consequential proceedings arising thereof.

2. In response to notice of motion, the State counsel appeared on behalf of respondent No.1-State while Mr. Sukhwinder Singh Sudan, Advocate appeared on behalf of complainant/respondent No.2.

3. Reply filed on behalf of respondent No.1-State in the shape of affidavit of Rajinder Singh Sohal, Deputy Superintendent of Police, City-1, Mohali was taken on record. However, no reply was filed on behalf of complainant/respondent No.2.

4. For the last so many dates, there is no representation on behalf



of respondent No.2.

5. The brief facts of the case are that complainant/respondent No.2 Vinod Kumar reported to the police that he along with Rajesh Kumar Verma took shop in question situated in the area of Nayagaon, Mohali on monthly rent of Rs.3500/- from Pritpal Singh. Both of them started running their business under the name and style of Sai Opticals. However, the rent deed was executed only in the name of co-tenant Rajesh Kumar Verma, who relinquished his share in the said business in favour of the complainant, just after four months. Thereafter, complainant started running his exclusive business in the shop in question being tenant under Pritpal Singh. Petitioners who are sons of Pritpal Singh used to regularly collect rent of the shop from him. The complainant requested them to execute fresh rent deed in his favour but the petitioners did not do so despite the fact that the rent was gradually enhanced from Rs.3500/- to Rs.7000/- per month. The complainant was called to his house by son of Pritpal Singh on 30.06.2012 and was asked to enhance the rent to Rs.15000/- from the month of April but the said increase was not acceptable to the complainant and he agreed to vacate the shop within a period of next three days. The complainant went to his shop to handover the vacant possession of the same to the petitioners and on reaching there, he found that petitioners have already taken forcible possession of the shop by breaking its locks and they also committed theft of the articles belonging to the complainant which were lying in the shop. The matter was reported to the police on 01.07.2012 but the police officials failed to take any action. On this, complainant lodged complaint in writing with SSP Mohali and resultantly, FIR in this case was registered.



6. The counsel appearing on behalf of the petitioners has inter alia submitted that the petitioners being sons of Pritpal Singh are the owners of the shop in question and the same was rented out to one Rajesh Kumar Verma son of Ram Parshad in the year 2007 vide rent agreement Annexure P-2. Subsequently, the said tenant handed over the vacant possession of the shop in question to the petitioners vide affidavit/writing Annexure P-3 dated 25.06.2012. It has been further argued that in terms of Annexure P-3, everything was settled between the petitioners and Rajesh Kumar Verma. It has been further contended that from the perusal of Annexure P-2 and Annexure P-3, it is evident that complainant Vinod Kumar Verma has nothing to do with the shop in question owned by the petitioners and he never occupied the said shop as a tenant. It has been further argued that in the given circumstances, it stands fully proved that the allegations of theft, mischief and trespass made by complainant Vinod Kumar Verma against the petitioners are totally false. It being so, the prosecution of the petitioners on the basis of FIR Annexure P-1 would amount to abuse of the process of Court and that of law as well.

7. The present petition has been resisted by the State counsel who has submitted that at the time of incident in question, the concerned shop of the petitioners was occupied by complainant Vinod Kumar Verma as a tenant. The said tenant was regularly paying the rent to the petitioners. However, petitioners asked the complainant to vacate the said shop, on which the complainant requested for some time to do so and in the meantime, the petitioners took forcible possession of the shop by breaking open its locks and they also took away the articles belonging to the



complainant which were lying there. That thus, *prima facie* case under Sections 379, 427 and 448 IPC is made out against the petitioners. It has been further submitted that no ground for interference under Section 482 Cr.P.C. is made out, in the present case.

8. I have considered the rival contentions raised on behalf of the petitioners and the State.

9. Admittedly, the shop in question was owned by Pritpal Singh and the present petitioners are sons of said Pritpal Singh. The case of the prosecution is that the said shop was taken on rent by complainant Vinod Kumar and one Rajesh Kumar Verma. The complainant failed to produce the concerned rent deed which was executed by the landlord in favour of Rajesh Kumar Verma and he himself. On the contrary, petitioners have produced one agreement regarding rent deed Annexure P-2 which was executed between aforesaid Rajesh Kumar and petitioner No.1 Satwinder Singh. From the perusal of Annexure P-3, it appears that aforesaid Rajesh Kumar surrendered the tenancy and handed over vacant possession of shop in question to petitioner No.1 on 25.06.2012. The complainant failed to rebut documents Annexure P-2 and Annexure P-3 in any manner. Thus, the prosecution has *prima facie* failed to establish that the complainant ever came into permissive possession of shop in question being tenant/co-tenant under the petitioners and thus, there was no question of committing of theft or criminal trespass by the petitioners. Having regard to the facts and circumstances of the case, the complainant/prosecution has also failed to *prima facie* establish offence punishable under Section 427 IPC. Therefore, continuation of criminal proceedings against the petitioners is nothing but



abuse of the process of Court and that of law as well.

10. For the foregoing reasons, the present petition is allowed and FIR No.61 dated 12.09.2012 (Annexure P-1), registered under Sections 379, 427, 448 IPC, in Police Station Nayagaon, District SAS Nagar (Mohali) and all the consequential proceedings arising thereof are quashed qua the petitioners.

11.03.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**