



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

121

**CRM-M-16532-2013 (O&M)
Date of decision: 10.02.2026**

ROSHAN LAL & OTHERS

.....Petitioners

VERSUS

RAM KRISHAN

.....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Namit Gautam, Advocate
for the petitioners.

Ms. Kawaljit Kaur Dhillon, Advocate
for the respondent.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Section 482 Cr. P.C. for seeking quashing of complaint No. 33 dated 19.10.2012 as well as the order of summoning dated 09.04.2013 vide which the petitioners had been ordered to be summoned to face trial for commission of offence under Section 323/324/382/506/427/452/148/149/34 of the Indian Penal Code, 1860.

2. The controversy, in brief, is that the petitioners have challenged the complaint alongwith the summoning order and all consequential proceedings arising therefrom, having been instituted by the respondent-complainant alleging that he had been forcibly and illegally ejected from the property under an execution. The complainant-respondent is the tenant over the premises in question.

3. Learned counsel appearing on behalf of the petitioners has contended that the very institution of the complaint and the consequent issuance of summons constitute a clear abuse of the process of law and are reflective of malicious harassment. It is submitted that petitioner No. 1, Roshan Lal, along with his wife Pushpa Rani, had instituted eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 against the respondent-complainant, Ram Kishan, from a portion of property bearing No. B-XI-293/9, comprising one shop situated at Benjamin Road, Division No. 2, Ludhiana. It is urged that the respondent-complainant was originally inducted as a tenant by the previous owner at a monthly rent of Rs.69/-, along with house tax, at the rate of 15% per annum. The property in question was subsequently purchased by petitioner No. 1 and his wife vide a registered sale deed dated 21.09.1998, registered on 06.10.1998, in the office of the Sub-Registrar, Ludhiana.

4. The respondent-complainant appeared in the eviction proceedings and filed his written statement. The eviction petition was contested for nearly eleven years. Thereafter, the respondent stopped appearing in the case and was proceeded against ex parte. Ultimately, vide

order dated 15.06.2012, the ejectment petition was allowed and the respondent-complainant was directed to vacate the premises.

5. It is submitted that, notwithstanding the pendency of eviction proceedings, the respondent-complainant instituted Civil Suit No. 63 dated 28.02.2000 for seeking a decree of permanent injunction restraining petitioner No. 1 herein from interfering with his peaceful possession of the suit property. The said civil suit was dismissed by the learned Civil Judge (Junior Division), Ludhiana, vide judgment and decree dated 19.03.2012.

6. Alongwith passing of the eviction order dated 15.06.2012, the respondent-complainant was also directed to hand over vacant possession of the premises within three months, i.e., on or before 15.09.2012. As the respondent failed to comply, petitioner No. 1 and his wife instituted Execution Application No. 52 dated 28.09.2012 seeking issuance of warrants of possession with police assistance. The Executing Court, vide order dated 01.10.2012, issued warrants of possession and appointed a bailiff for execution. On 05.10.2012, the warrants were duly executed, and possession of the premises was handed over to the petitioners in the presence of witnesses. It is submitted that the bailiff's report recorded that no untoward incident occurred and that the respondent-complainant had removed all his belongings from the premises. Despite the above judicial proceedings culminating in lawful delivery of possession through the Court-appointed bailiff, the respondent instituted Complaint No. 33 dated 19.10.2012, alleging that on 05.10.2012 his belongings were forcibly removed and that he was assaulted. Learned counsel contends that these allegations stand directly contradicted by the official report of the bailiff, and that the present criminal

proceedings are a retaliatory measure arising out of the eviction. It is in these circumstances that the petitioners have approached this Court for seeking quashing of the complaint.

7. Counsel contends that there is an evident abuse of process of law and once the abuse of process of the law is established from the undisputed documents available on record, such mischievous complaints and criminal proceedings ought to be nipped in the bud. It is further submitted that where the abuse of process is established from unimpeachable documents, the Court is not required to await a protracted trial to vindicate an innocent person. The inherent jurisdiction of this Court is precisely intended to prevent such misuse and to ensure that a citizen is not subjected to the rigours, stigma and harassment of criminal prosecution only to eventually secure an acquittal, after years of unwarranted litigation. Such mischievous and retaliatory complaints, it is contended, deserve to be interdicted at the threshold.

8. Learned Counsel appearing on behalf of the respondent contends the matter involves disputed questions of fact which cannot be adjudicated by this court. The trial Court after considering the material and preliminary evidence adduced by the complainant, has found sufficient grounds to summon the petitioner. In such circumstances, the petitioner ought to avail and exhaust the remedies available under law before the Trial Court

9. I have heard learned Counsel appearing on behalf of the petitioner and have gone through the documents appended alongwith the present petition.

10. Invariably to appreciate the controversy, it would be apposite to make a reference to the report of the bailiff dated 05.10.2012 which reads thus:-

Sir.

It is submitted that possession of vacant shop has been obtained as per site plan and locks have been put by me.

Sd/-, Pushpa Rani, Dated: 5.10.12)

Sir,

It is submitted that I alongwith Decree Holder and witnesses have arrived at No. B-XI-293/9 for service of warrant of possession of shop in dispute, directions of which are found to be correct at the spot. Ram Kishan, Judgment Debtor, was found present at the shop, who was told regarding warrant of possession. He was also asked to show, if any stay order has been issued in this connection, but he has not submitted any stay order. Then the Judgment Debtor was asked to vacate the shop. On this, the Judgment Debtor vacated the shop and collected his belongings. Then Ram Krishan, Judgment Debtor was asked to put his signature after vacating the shop in dispute, to which, he replied that I have collected my belongings, I will not put the signature. He collected his belongings and refused to put signature. Decree holder obtained vacant possession of shop in dispute and got put his locks and mentioned that she has obtained possession of vacant shop as per site plan and locks have been put by her.

Sd/-

Sd/-

Sd/-

Sir, Possession effected.

Sd/-, Pushpa Rani

Witness

Sd/- Davinder
Grover S/o.Tek
Chand, 460, Chhauni
Mand, Ludhiana

Witness

Sd/- Shashi Bala
W/o. Ashok Kumar, 536,
Benjamin Rd.,
Ludhiana

Witness

Sd/- Harvinder
Singh s/o Pritpal
Singh, Binjamin
Road, Ludhiana

11. The execution of the aforesaid warrants and the submission of the bailiff's report are not in dispute. A perusal of the report clearly indicates that the bailiff recorded that the respondent-complainant was directed to vacate the shop in question, whereupon he removed his belongings and handed over vacant possession of the premises. It has also been specifically noted that the respondent-complainant declined to append his signatures to the documents prepared at the spot. The proceedings conducted at the site were duly attested by independent witnesses, in accordance with the procedure adopted by the bailiff while executing the warrants of possession.

12. Further, the allegation levelled in the complaint, as per Para 4 also need special specific mention:

"That the accused No.1 very cleverly and by playing fraud with the civil court has get the case ex-parte' decided and thereafter filed execution application to execute that order. Thereafter on 05.10.2012 all the above said accused in connivance with each other with an intention to take the forcible possession of the shop of the complainant, attacked upon the complainant with an intention to kill the complainant with weapons and all the accused forcibly and illegally started throwing the articles of the complainant lying in the shop from out of the shop and when the complainant tried to stop them and requested them not to take law into their own hands on that the accused No. 1 with an intention to kill the complainant gave dang blow on the person of the complainant and

directed the other accused to teach him a lesson and on hearing this all the ether accused started beating the complainant with the dangs and also gave kicks blow on the person of the complainant and after giving severe heatings the accused No. 1 and 2 caught hold the arms and accused No. 12 and 14 caught from him from his legs and thrown him out of the shop. The complainant made several requests that not take into their hands but they did not pay any heed to the genuine requests of the complainant and taken the forcible possession of the shop from the complainant. The accused No. 14 who is a government employee is also supporting the accused No. 1 to 14 in taking the forcible possession of the shop of the complainant. The accused No. 8 has also taken an amount of Rs.55,000/- from the shop of the complainant which the complainant collected for giving the same to the contractor who prepared Mitti De Bhande. The accused also broken the articles, lying in the shop. The complainant raised hue and cry and after hearing the cries of the complainant several passer and daughter of the complainant came at the spot who saved the complainant from the clutches of the accused.”

13. A perusal of the record reveals that the complaint under challenge pertains to the alleged incident dated 05.10.2012 (as reported also by the bailiff), wherein the respondent–complainant has asserted that the petitioners forcibly dispossessed him from the shop in question, and assaulted him with weapons and threw out the articles lying within the premises. The gravamen of the complaint, thus, rests upon allegations of unlawful and violent dispossession on the very date on which possession had been delivered through execution proceedings.

14. The date and the cause of action for institution of the complaint thus matches with the report of the bailiff.

15. It is evident that the respondent–complainant has set up a version diametrically opposed to the official account recorded by the bailiff in the course of execution proceedings. Though it has been faintly suggested that the petitioners had secured an ex parte decree, such a circumstance, by itself, cannot be a ground to discredit or invalidate a lawful eviction order passed by the learned Rent Controller in accordance with due process. Significantly, the specific assertion of the petitioners that the respondent–complainant had initially entered appearance in the eviction proceedings and had filed his written statement has not been controverted. The record thus indicates that the respondent–complainant, having once participated in the proceedings, subsequently chose to absent himself and abstain from further contest. It was in these circumstances that he was proceeded against ex parte and the eviction order ultimately came to be passed. The mere fact that the decree was rendered ex parte does not detract from its legality, particularly when it is preceded by due notice and opportunity of hearing. At no point in time, the respondent-complainant preferred an appeal before the Appellate Authority against the eviction order passed by the Rent Controller. Besides, it also remains undisputed that a Civil Suit for permanent injunction had also been filed by the respondent-complainant which was dismissed by the Civil Judge (Junior Division), Ludhiana. The said order have also attained finality. The delivery of possession in the present case is in the manner known to law and in the presence of a bailiff nominated by the Court. The bailiff has specifically reported that it was a peaceful transaction and possession had been handed

over without untoward incident and also reported that the respondent-complainant had removed his belongings but refuse to sign the proceedings.

16. A shenanigan version now appears to have been projected by the respondent-complainant. The allegation that he was subjected to physical assault at the time of execution of the warrants finds no corroboration from any contemporaneous document or independent material on record. Apart from the self-serving assertions made in the complaint, there is no medical record, complaint to any authority or other credible evidence placed on record to substantiate the allegation of assault. Even during the course of arguments, learned counsel for the respondent was unable to refer to any document or material which would prima facie indicate that the delivery of possession, carried out through Court process, was accompanied by violence or use of force beyond what was legally sanctioned. To the contrary, the official report of the bailiff records a peaceful execution of the warrants and removal of belongings by the respondent-complainant himself. In these circumstances, it prima facie appears that the present complaint has been instituted as a retaliatory measure against the petitioners for having lawfully obtained possession of the premises through due process of law.

17. The Supreme Court laid down in the matter of “*State of Haryana versus Bhajan Lal*” reported as *AIR 1992 SC 604* that in cases where prosecution is malicious and manifestly attended by vengeance, the proceedings being an abuse, can be quashed. Once the Court has unimpeachable and incontrovertible evidence, the same may be adverted to the rescue of the one being assailed and being victimized by weaponization of

criminal law. A Court of law is not a playground for a spiteful litigant vexing his grudge through persecution of the other.

18. The criminal process cannot be permitted to be invoked as an instrument of vendetta or as a means to reopen issues that have already attained finality in duly concluded civil and rent proceedings.

19. I am of the view that institution of the complaint and the order of summoning is an evident abuse of the process of law. The petitioners, having lawfully invoked statutory remedies under the rent legislation and having obtained possession of the premises through execution proceedings conducted under the supervision of the Court, cannot be subjected to criminal prosecution for the same act. To permit such proceedings to continue would amount to penalising a litigant for resorting to remedies sanctioned by law and would allow the criminal process to be employed as a tool of retaliation. The facts on record unmistakably indicate that the complaint is a counterblast to the eviction and delivery of possession effected through due process. In these circumstances, continuation of the criminal proceedings would not advance the cause of justice but would instead perpetuate misuse of judicial process. .

20. The report submitted by the bailiff, being an officer of the Court, carries a presumption of truth and correctness, particularly when it forms part of the judicial record prepared in the ordinary course of official duty. There is no material on record to suggest that the bailiff had any motive or personal interest to submit a false or fabricated report. In the absence of any contemporaneous complaint, medical record, or independent corroboration, the bald and self-serving allegations levelled by the respondent–complainant cannot be accorded precedence over an official report generated in the course

of execution proceedings. Constitutional Courts are duty-bound to ensure that the criminal process is not permitted to degenerate into a weapon of harassment or retaliation. Where the material on record unmistakably discloses that the proceedings have been initiated with an oblique motive and are manifestly attended with mala fide intent, the same warrant interference at the threshold to prevent abuse of process and to secure the ends of justice.

21. For the reasons as aforesaid, the present petition is allowed. The criminal complaint No.33 dated 19.10.2012 as well as the order of summoning dated 09.04.2013 and all consequential proceedings arising therefrom are consequentially.

22. All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 10, 2026

Vishal Sharma

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