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(2012) 09 P&H CK 0364

High Court Of Punjab And Haryana At Chandigarh

Case No: CRM-M No. 15253 of 2011 (O and M)

Sharda Ram	APPELLANT
Vs	
State of Punjab and Others	RESPONDENT

Date of Decision: Sept. 20, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 34, 380, 447, 448, 506

Hon'ble Judges: Naresh Kumar Sanghi, J

Bench: Single Bench

Advocate: Viney Puri, for Mr. Daygeesh Kumar Bhatti, for the Appellant; Jaspreet Singh, AAG, Punjab for Respondent Nos. 1 and 2 and Mr. Narinder S. Lucky, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Naresh Kumar Sanghi, J.
Prayer made in this petition is for quashing of the FIR No. 216, dated 22.9.2010, under Sections 380, 447, 448 and 506 read with Section 34, IPC, registered at Police Station, Maqsudan, District Jalandhar. The brief facts of the case are that respondent No. 3-complainant, Nirmal Kaur, moved an application to the Station House Officer, Police Station, Maqsudan, with the allegations that she was in possession of a portion of the joint land for the last 30 years where she had constructed a room and used to maintain her cattle. A fodder cutting machine, one engine and a hand pump were also installed there. A suit for partition of the same was pending before the Sub Divisional Magistrate for 27.9.2010. Prem Lal, Shardha Ram, Gian Chand, Paramjit and Mangat Ram wanted to take possession of the portion which was already retained by respondent No. 3-complainant. On 20.9.2010, when respondent No. 3-complainant, Nirmal Kaur, went to see her cattle there, she witnessed that all the persons, named above, were demolishing the constructed portion over that land and thereafter took away the fodder cutting machine and the engine with them. They also tried to displace and take away the hand

pump. Nirmal Kaur and her son, Desh Raj, tried to stop them from demolishing the constructed portion, but the above said persons extended threats to them. On the basis of the above application, FIR No. 216, dated 22.9.2010, for the offences punishable under Sections 380, 447, 448 and 506 read with Section 34, IPC, was registered at Police Station, Maqsudan, District Jalandhar.

2. Learned counsel for the petitioner submitted that civil litigation with regard to the land in dispute was pending between the parties; the disputed portion was a joint holding; respondent No. 3-complainant, Nirmal Kaur, was not satisfied with the orders passed by the revenue authorities; and from the perusal of the FIR, no case for prosecution of the petitioner was made out, therefore, the impugned FIR and the consequential proceedings arising therefrom are liable to be quashed.

3. Learned counsel for the State, assisted by Mr. Narinder S. Lucky, learned counsel for respondent No. 3-complainant, submitted that after thorough investigation, the charge sheet was presented by the investigating agency and thereafter the learned Trial Court framed the charges against the petitioner and his co-accused. They further submitted that now the case is pending before the learned Trial Court for 18.10.2012 for recording of the prosecution evidence. They further submitted that the Commissioner of the Division had set aside the order passed by the revenue authorities, therefore, the petitioner cannot draw any benefit from such orders. They further submitted that the accused had committed not only the trespass but they committed theft and also extended threats to kill to respondent No. 3-complainant and her son, therefore, no case for quashing of the FIR and the consequential proceedings arising therefrom is made out.

4. I have heard learned counsel for the parties and gone through the material available on record. It is settled proposition that once after thorough investigation, the charge sheet has been filed, in that eventuality, the FIR cannot be quashed in isolation. The Court has to evaluate the entire material collected during the course of investigation. If the investigating agency files the charge sheet for the prosecution of the accused and even the charges are framed by the learned Trial Court, in that eventuality the FIR can be quashed in a rare case only. The case in hand is not one of those rare cases where after filing of the charge sheet and framing of the charges, this Court should exercise the power enshrined in Section 482, Cr. P.C., because from the perusal of the FIR, it is made out that the petitioner along with his co-accused visited the land possessed by respondent No. 3-complainant, demolished the constructed portion, extended threats to her and took away her fodder cutting machine and engine. There are specific allegations attracting the mischief of Sections 380, 447, 448 and 506 read with Section 34, IPC, for which the FIR has been registered against the petitioner and his co-accused. Therefore, this Court does not see any reason in favour of the petitioner to accede his prayer for quashing of impugned FIR No. 216, dated 22.9.2010, under Sections 380, 447, 448 and 506 read with Section 34, IPC, registered at Police Station, Maqsudan, District Jalandhar. Resultantly, the present petition fails and the same is hereby dismissed.