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**(2012) 01 SHI CK 0143**  
**In the High Court Of Himachal Pradesh**  
**Case No : Criminal MP (M) No. 1124 of 2011**

Balwant

APPELLANT

Vs

State of H.P.

RESPONDENT

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**Date of Decision :** 17-01-2012

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 154, 438  
Penal Code, 1860 (IPC) — Section 447, 452, 506

**Citation :** (2012) 01 SHI CK 0143

**Hon'ble Judges :** Kuldip Singh, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Kuldip Singh, Judge

1. This judgement shall dispose of Cr.MP(M) Nos. 1124 and 1125 of 2011, filed u/s 438 Cr.P.C. by Balwant and Bimla Devi, respectively for releasing them on bail in FIR No. 114/2011 dated 14.10.2011 registered at Police Station, Chirgaon, under sections 447, 452 and 506 IPC.

2. It has been stated in the applications that one C.D. Bhatt on 14.10.2011 had alleged that petitioners are encroaching the land owned by C.D. Bhatt and situated in village Khashdhar. In view of complaint of C.D. Bhatt, the police is calling the petitioners? family time and again to the police station, even a case being FIR No. 114 of 2011 dated 14.10.2011 has also been registered at Police Station, Chirgaon.

3. The petitioners are innocent, they have committed no offence. The petitioners are ready to furnish bail bonds in accordance with the directions of this court. The submission has been made for releasing the petitioners on bail.

4. The bail applications have been opposed by filing status report in Cr.MP(M) No. 1124 of 2011. It has been stated in the status report that case has been registered on the statement u/s 154 Cr.P.C. of Jeet Bahadur, Chowkidar working

in the orchard of C.D. Bhatt. It has been stated that on 7.10.2011 Jeet Bahadur had gone to Khashdhar and when he returned in the evening, he found a Dhara constructed on the land of C.D. Bhatt. Balwant petitioner was standing near the Dhara and on asking, Balwant told that he and his mother had constructed the Dhara on their own land. In fact the land over which the Dhara has been constructed is owned by C.D. Bhatt. The wife of the complainant also told that Bimla Devi and Balwant brought wooden planks and CGI sheets and threatened the complainant not to cut the grass from the land near the Dhara otherwise they would kill her. It has been stated that Dhara has been constructed in order to encroach the land of C.D. Bhatt.

5. It has been stated that land has been got demarcated from Halqua Kanungo, Tehsil Chirgaon and the land over which the Dhara has been constructed is found owned by C.D. Bhatt having khasra No. 1904. It has been stated that investigation in the case is complete and only challan is to be prepared.

6. Heard and perused the police file. According to the investigating agency, the land over which Dhara has been constructed is owned by C.D. Bhatt. The investigation in the case is complete. In the status report, no prayer has been made for custodial interrogation, nor in my opinion, it is a case of custodial interrogation. No recovery is to be made from the petitioners. In the facts and circumstances of the case, the petitioners have made out a case for grant of bail, u/s 438 Cr.P.C. in their favour.

7. In view of above, both the petitions being Cr.MP(M) Nos. 1124 and 1125 of 2011, are allowed and it is directed that in the event of arrest of the petitioners in FIR No. 114/2011 dated 14.10.2011 registered at Police Station, Chirgaon, under sections 447, 452 and 506 IPC, they shall be released on their furnishing personal bond in the sum of Rs. 20,000/- each with one surety each of the like amount to the satisfaction of arresting officer with the conditions that petitioners shall continue to join the investigation as and when called by the investigating officer and shall not terrorise, overawe any prosecution witness or tamper with the prosecution evidence in any manner.

8. Any observation made hereinabove shall not be construed as an expression of opinion over the merits of the case. Both the applications stand disposed of.