
(2013) 10 P&H CK 0206
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M-988 of 2011 (O and M)

Nagina Singh and Others	Vs	APPELLANT
State of Punjab and Another		RESPONDENT

Date of Decision : 08-10-2013

Acts Referred:

Citation : (2013) 10 P&H CK 0206

Hon'ble Judges : Sabina, J

Bench : Single Bench

Advocate : S.S. Khaira, for the Appellant; Neeraj Yadav, AAG, Punjab, for the Respondent

Final Decision : Dismissed

Judgement

Sabina, J.—Petitioners have filed this petition u/s 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") challenging the orders dated 27.08.2010 and 06.12.2010. In the present case, respondent No. 2 has lodged the FIR No. 61 dated 18.04.2009 against the petitioners u/s 379 of the Indian Penal Code, 1860 (in short "IPC"), registered at Police Station Dhariwal, District Gurdaspur.

2. The case of the complainant, in brief, was that the petitioners had harvested the crop from Khasra No. 41/1/2 (8-0) which was in the possession of the complainant.

3. Learned counsel for the petitioners has submitted that in fact, petitioner No. 1 Nagina Singh was owner in possession of the land in question. In this regard, learned counsel has placed reliance on judgment/decreed passed by the Civil Court in a suit filed by petitioner No. 1 for permanent injunction against respondent No. 2 and others. Learned counsel for the petitioners has further submitted that the judgment and decree dated 27.11.2003 passed by the trial court were upheld in appeal by the Appellate Court vide judgment/decreed dated 29.07.2004.

4. Learned State counsel, on the other hand, has opposed the petition and has

submitted that as per the entry in the Khasra Girdawari for the year 2007, respondent No. 2 was shown to be in possession of the land in question.

5. In the present case, challan was presented against the petitioners after thorough investigation of the case. The trial court, vide order dated 27.08.2010, framed charges against the petitioners u/s 379 and 411 IPC. The said order was upheld in revision vide order dated 06.12.2010 (Annexure P-4). In the present case, in a suit filed by petitioner No. 1, the Court restrained respondent No. 2 and his co-defendants from dispossessing petitioner No. 1 from the suit land forcibly and illegally. The suit filed by petitioner No. 1 was decided on 27.11.2003 and the appeal filed by respondent No. 2 was dismissed on 29.07.2004. However, as per the entry in the Khasra Girdawari dated 19.04.2007, respondent No. 2 was shown to be in possession of the land in question. At the stage of framing of the charges, trial court was only required to see as to whether a prima facie case for proceeding against the accused was made out or not. In view of the entry in the Khasra Girdawari, the trial court rightly ordered the framing of the charges against the petitioners. The entry in the Khasra Girdawari was made in the year 2007 whereas, in the civil litigation, the judgment was passed by the Appellate Court on 29.07.2004. It appears that after decision of the civil litigation, respondent No. 2 came in possession of the property and entry in the Khasra Girdawari was made qua his possession on 19.04.2007.

6. It is a settled proposition of law that the petitioners cannot invoke jurisdiction of this Court u/s 482 Cr.P.C. after dismissal of their revision by the Sessions Court, as it would amount to a second revision. However, in a case of grave injustice, this Court can interfere u/s 482 Cr.P.C.

7. In the present case, no grave miscarriage of justice has occurred which would warrant interference by this Court u/s 482 Cr.P.C.

8. In these circumstances, no ground for interference is made out. However, any observation made above will have no bearing on the merits of the case. Dismissed.