
(2013) 08 P&H CK 0408

In the Punjab And Haryana At Chandigarh

Case No : Criminal M. No. M-23250 of 2013 (O and M)

Raj Kumar and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 12-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 419, 420, 467, 468, 471
Prevention of Damage to Public Property Act, 1984 — Section 3

Citation : (2013) 08 P&H CK 0408

Hon'ble Judges : K.C. Puri, J

Bench : Single Bench

Advocate : Sanjiv Gupta K.K.R, for the Appellant;

Final Decision : Dismissed

Judgement

K.C. Puri, J.—This is a petition u/s 482 Cr. P.C. for quashing of FIR No. 519 dated 31.12.2011 under Sections 419, 420, 467, 468, 471 IPC and Section 3 of the Prevention of Damage to Public Property Act, 1984, registered at Police Station Gharaunda, District Karnal. Learned counsel for the petitioners has submitted that FIR has been registered by Ajay Kumar, Sarpanch, Gram Panchayat against the petitioners on account of party faction. The civil suit regarding the said land filed by the Sarpanch is pending in the Court of Sh. Gagandeep Mittal, Civil Judge Junior Division, Karnal. The matter is civil in nature and no criminal case is made out. It is further submitted that in the year 1954-55 the plot in dispute was allotted in the name of three persons namely Sadhu Ram, Ganga Ram and Ruhla. Father of petitioners No. 1 and 2 was having three sides open plot having an area of 45" X 50" in the Lal Dora of village which was exchanged by the abovesaid three persons with the plot in dispute. Petitioners No. 1 and 2 have earlier filed a civil suit for declaration, which was decreed on 10.2.2005 on the basis of compromise. The petitioners have been unnecessarily harassed on account of party faction.

2. I have carefully considered the said submission and have gone through the record produced on the file.
3. According to the allegation the land in question is reserved for pond. The allegation that said land was exchanged in lieu of land allotted to the ancestors of petitioners No. 1 and 2 has culminated into the civil court decree and as such they are the owners of the land. No document has been placed on the file that land of pond has been allowed to be exchanged with the alleged land of the petitioners. The land of pond cannot be allowed to be given on the basis of consent decree. Record shows that before the Lok Adalat, the previous Sarpanch admitted the factum of exchange but it is settled law that land of Gram Panchayat cannot be allowed to be thrown away for a song. The petitioners have raised a disputed question of fact and law, which can be adjudicated only during the course of trial.
4. The proceedings u/s 482 Cr. P.C. can only be resorted to in case there is an abuse of the process of the Court or the criminal proceedings have been initiated with mala fide intention.
5. It cannot be said that criminal proceedings have been initiated merely on the ground of party faction. The land belong to Gram Panchayat which cannot be allowed to be taken away by any person. Prima facie there is nothing on the file that present proceedings are an abuse of the process of the Court. The case of the petitioners does not fall within the ambit of Section 482 Cr. P.C.
6. Consequently, the petition is without any merit and the same stands dismissed. However, while parting with the order, it is made clear that any observations made above are merely for the decision of the present case and shall not be construed as an expression of opinion on the merits of the case.