
(1999) 07 P&H CK 0109

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 18805-M of 1999

Swaran Singh

APPELLANT

Vs

Sr.Superintendent of Police,.Hoshiarpur

RESPONDENT

Date of Decision : 07-07-1999

Acts Referred:

Citation : (1999) 3 RCR(Criminal) 707

Hon'ble Judges : T.H.B.Chalapathi, J

Advocate : R.P. Dhir, Advocates for appearing Parties

Judgement

T.H.B. Chalapathi, J.

1. This petition under Section 482 Cr.P.C. is filed to direct the respondents Nos. 1 and 2 to register a case against respondents Nos. 3 to 6. According to the petitioner, he and respondents Nos. 4 and 6 are cosharers in the land situated in village Matiana. According to him, the respondent are having 1/3rd share in the land and one Joginder Singh executed a will in favour of the petitioner bequeathing 1/3rd of the property to which he is entitled. According to the petitioner, respondents No. 3 to 6 forcibly cut crop and, therefore, they committed trespass and theft of the crop. He is therefore seeking registration of the case against respondents Nos. 3 to 6 for the offences of trespass and theft.

2. Admittedly, the property is joint property. Even according to the petitioner he is cosharer along with respondents Nos. 3 to 6. It cannot be disputed that every cosharer is entitled to an interest in every inch of the land. Reference may be made to the recent decision of the Supreme Court in Kochkunju Nair v. Koshy Alexander and others, 1999(III) SLT 183 wherein it has been held as follows :

"That all coowners have equal rights and coordinate interest in the property though their shares may be either fixed or indeterminate. Every coowner has a right to enjoyment and possession equal to that of the other coowner or coowners. Each coowner has in theory interest in every infinitesimal portion of the subjectmatter and each has the right irrespective of the quantity of his

interest to be in possession of every part and parcel of the property jointly with others."

3. Since respondents Nos. 3 to 6 are also entitled to the property they have committed no offence of theft and trespass. If the petitioner is in exclusive possession of the property, it is always open to him to file a suit for injunction and protect his possession or he may file a suit for partition of the property. Even if it is assumed that the respondents cut the crop, they have not committed offence of theft.

This petition is, therefore, dismissed. Copy of the order be given dasti.