



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M No.14315 of 2023

Date of decision: 24.02.2025

Gurmukh Singh

....Petitioner

Versus

Puran Chand Bhatt and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tarundeep Kumar, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been preferred under Section 482 of Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking setting-aside of order dated 10.11.2017 (Annexure P-1), passed by learned Judicial Magistrate Ist Class, Chandigarh vide which the complaint filed under Section 156(3) Cr.P.C. was dismissed and as well as for setting-aside the order dated 20.07.2019 (Annexure P-2) passed by learned Additional Sessions Judge, Chandigarh dismissing the revision petition filed against order dated 10.11.2017.

2. Tersely put, the facts of the case are that a long time ago, one Pilkan tree, measuring 15 feet in length and 1 and ½ feet in breadth, was planted by the Department of Horticulture, facing the house of the respondents. On 14.12.2009, around 6:30 PM, the respondents uprooted the said tree in order to make parking space for their cars. Since the tree was uprooted without taking necessary permission from the concerned



department, a complaint under Section 156(3) Cr.P.C. was moved by the petitioner before the learned trial Court seeking registration of FIR. However, learned trial Court did not find any reason to issue process and hence dismissed the complaint vide order dated 10.11.2017 (Annexure P-1). Aggrieved by the same, a revision petition was moved by the petitioner, which was also dismissed vide order dated 20.07.2019 (Annexure P-2).

3. Learned counsel for the petitioner *inter alia* contends that at the time of issuing the process the Court is only required to see if a *prima facie* case is made out against the accused, as such, it is not necessary to examine all the witnesses. The learned trial Court has not appreciated the evidence available on the record, which is sufficient to establish that the Pilkan tree was uprooted without necessary permissions. Reliance in this regard is placed on the judgment rendered by the Hon'ble Supreme Court in *Nagawwa vs. Veeranna Shivalingappa Konjalki and others. AIR 1976 SC 1947*. Further, the learned Courts below has erred in ignoring the letter dated 21.01.2010, exhibited as PW3/1, sent by the concerned Sub Divisional Engineer to Police Chowki In-charge, wherein respondent no. 1 has been named qua allegations of uprooting the tree.

4. Having heard the learned counsel for the petitioner and after perusing the record of the case with his able assistance, it transpires that the petitioner has been unable to establish a *prima facie* case against the respondents. In fact, neither the petitioner nor eye witnesses had come



forth to record their respective statements on oath, rather merely an affidavit was tendered by the petitioner, which is insufficient to prove the allegations made. Additionally, a perusal of the report submitted by the SHO establishes that none of the neighbours had actually witnessed any of the respondents cutting the said tree.

5. As such, the learned trial Court has correctly dismissed the complaint and declined to issue process against the respondents as nothing has been put forth to indicate their complicity. Reliance in this regard can be placed on the judgment rendered by two Judge Bench of the Hon'ble Supreme Court in *Delhi Race Club (1940) Ltd. v. State of Uttar Pradesh, 2025 (1) SCC (Cri) 281*, wherein, speaking through Justice J.B. Pardiwala, the following was held:

“6. If, however, a bare perusal of a complaint or the evidence led in support of it shows essential ingredients of the offences alleged are absent or that there are such patent absurdities in evidence produced that it would be a waste of time to proceed further, then of course, the complaint is liable to be dismissed at that stage only. What the Magistrate has to determine at the stage of issue of process is not the correctness or the probability or improbability of individual items of evidence on disputable grounds, but the existence or otherwise of a prima facie case on the assumption that what is stated can be true unless the prosecution allegations are so fantastic that they cannot reasonably be held to be true.”

6. As an upshot of above discussion, no interference is warranted by this Court, consequently, the present petition is dismissed

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and the impugned order dated 10.11.2017 (Annexure P-1), and order dated 20.07.2019 (Annexure P-2) are upheld.

7. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

24.02.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No