2026:PHHC:058651

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22943-2025

Raj Kumar Garg

....Petitioner

versus

State of Haryana and another

....Respondents

Reserved on: **April 16, 2026**
Date of Pronouncement/Decision: **April 20, 2026**
Date of Uploading: **April 20, 2026**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Edward Augustine George, Advocate and
Mr. Shubham Malik, Advocate for the petitioner.

Ms. Priyanka Sadar, Senior DAG Haryana
for respondent No.1 – State.

Mr. Shrey Goel, Advocate for respondent No.2.

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SUMEET GOEL, J.

Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS') laying challenge to the impugned order dated 24.03.2025 (Annexure P-5) passed by learned Additional Sessions Judge, Kurukshetra (hereinafter referred to as 'Sessions Judge'), whereby Criminal Revision No.116 of 2023 filed by respondent No.2, against the order dated 07.11.2023 passed by the learned Sub Divisional Magistrate, Thanesar, District Kurukshetra (hereinafter referred to as 'SDM') which restricted both the parties to interfere in the shop in question and appointed a receiver to take

possession of the shop in question, was allowed while setting aside the order dated 07.11.2023 *ibid*.

2. The case in hand bears a chequered history, deeply entrenched in mutual animosity between the parties, which appears to have propelled them into engaging in judicial adventurism, thereby reducing the sanctity of the Court to that of a battleground, driven primarily by a desire to vindicate personal egos. Such a backdrop assumes greater significance while appreciating the factual conspectus and in assessing whether the criminal machinery has been set into motion *bona fide* or merely as a stratagem to settle private vendettas under the guise of legal discourse.

Succinctly the dispute between the parties relates to one Shop No.43, Arya Samaj Market, Railway Road, Kurukshetra, Haryana (hereinafter referred to as '*Disputed Property*'). The petitioner is president of Up-Samiti, Arya Pratinidhi Sabha Haryana, who is the landlord of the said shop and the respondent No.2 is a tenant therein. A rent petition bearing Rent Petition No.13 of 2004, under Section 13 of the Haryana Rent Control Regulation and Eviction Act, 1973 was filed by the petitioner, seeking eviction of respondent No.2, from the above-mentioned shop. The said Rent Petition was dismissed as withdrawn, in view of the compromise between the parties, before Mega Lok Adalat, Kurukshetra, on 20.12.2008.

The Arya Pratinidhi Sabha Haryana, through petitioner as its authorised representative, filed a civil suit, under Sections 37 & 38 of the Specific Relief Act, against respondent No.2, in the Court of Additional Civil Judge (Senior Division), Kurukshetra (hereinafter referred to as 'Civil Judge'), bearing Civil Suit No.1192/2023. Vide order dated 01.09.2023 the learned Civil Judge, passed an interim injunction order against respondent

No.2, restraining him from further demolishing/ damaging the suit property, carrying out any construction activity and changing the nature of the shop in question (*Disputed Property*). The said Civil Suit was finally disposed of by the learned Civil Judge, vide Judgment dated 21.11.2023, in view of the statement made by respondent No.2 that he will undertake certain necessary construction works at the *Disputed Property*, with the prior permission of either the Rent Controller or the landlord only.

In the interregnum, during pendency of above-said Civil Suit, on the same day, when the interim injunction order was passed by the Civil Judge, in above-mentioned Suit, i.e., 02.09.2023, dispute related with regard to construction activity undertaken by respondent No.2 at the disputed property, resulted into lodging of criminal case, *vide* FIR No.527, dated 02.09.2023 under Sections 323, 427, 506 of IPC. Pertinently, that the said FIR was lodged at instance of one Shubham claiming himself to be the care-taker of *Disputed Property* having been appointed by the Arya Pratinidhi Sabha Haryana, against respondent No.2. The FIR case is stated to be pending adjudication in the Court of Judicial Magistrate, Ist Class, Kurukshetra, wherein charges have been framed against respondent No.2, on 03.03.2025.

After the incident of 02.09.2023, dispute again broke up between the parties *qua* the *Disputed Property* on 07.09.2023, and again a police complaint was lodged by the petitioner. The Police this time, initiated proceedings under section 145 Cr.P.C., *qua* the Disputed Property by filing a Complaint (Kalandra) before the Sub Divisional Magistrate, Thanesar, with a request to appoint receiver under section 146 of the Cr.P.C. *qua* the *Disputed Property*.

On 09.10.2023, respondent No.2 filed a Civil Suit against the State of Haryana and some police officers, claiming damages and perpetual injunction, and restraining the defendants therein from interfering with his right to enjoyment of the *Disputed Property*. In this Civil Suit bearing No.CS-1352 of 2023, vide order dated 08.12.2023 passed by the learned Additional Civil Judge (Senior Division), Kurukshetra, deciding the application under Order 39 Rules 1 and 2 of CPC, the defendants (*therein*) were restrained from interfering into the rights of respondent No.2 *qua* the *Disputed Property*.

Besides the above-mentioned litigations between the parties, the record of the case reveals that yet another Rent Petition bearing No.45 of 2023 filed by Petitioner against the respondent No.2, seeking his ejectment from *Disputed Property*, on grounds of non-payment of rent, personal necessity, unauthorised use and occupation, is also going on between the parties.

Coming back to the facts of the instant Criminal Miscellameous Petition, the same has its genesis in the Complaint (Kalandra) filed by the police dated 07.09.2023, *qua* the *Disputed Property*. The Sub Divisional Magistrate, Thanesar, District Kurukshetra, vide his order dated 07.11.2023, finally decided the matter, while appointing the Executive Officer, Nagar Parishad, Thanesar, as receiver of the *Disputed Property*. This prompted respondent No.2 to file a Criminal Revision Petition before the Additional Sessions Judge, Kurukshetra bearing Criminal Revision No.116 of 2023, which was allowed on 24.03.2025. Aggrieved of the judgment passed by Additional Sessions Judge dated 24.03.2025, the present Criminal

Miscellaneous Petition seeking quashing of the said judgment is filed before this Court.

3. On behalf of the State of Haryana, being respondent No.1, a separate reply by way of an affidavit dated 25.08.2025 has been filed in the matter. But in the said reply it is simply mentioned that the contents of Petition need no reply on behalf of the State and in this manner the State has not put any serious resistance to the petition.

3.1. However, on behalf of respondent No.2 a separate Written Statement dated 13.08.2025 has been filed wherein all the contents of the Criminal Miscellaneous Petition have been refuted and it is averred that the order passed by the Additional Sessions Judge, is entitled to be maintained and upheld being a well reasoned judgment.

4. On behalf of the petitioner, in tandem with the pleading in the Criminal Miscellaneous Petition, it has been argued that as per the provisions of Sections 145 and 146 of the Cr. P.C. whenever, an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute, likely to cause a breach of the peace, exists concerning any land and considers the case to be one of emergency, within his local jurisdiction, then he shall make an order, in writing, and he can attach the subject of dispute until a competent court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof. It is argued further that as per the Kalandra filed by the police, apparently there was breach of peace between the parties concerning the *Disputed Property*, and hence, as such the learned SDM has rightly exercised his powers under Sections 145 and 146 of Cr. P.C. It is argued that in the Civil Suit decided between the parties, before the Mega Lok

Adalat, respondent No.2 gave a statement that he will desist from raising any construction at the *Disputed Property* without seeking permission from Rent Controller, but he failed to adhere to his undertaking. It is argued that respondent No.2 is already facing criminal proceedings in FIR No.527 dated 02.09.2023, lodged against him in connection with the offences committed by him with respect to construction at the *Disputed Property*. It is argued that when even after lodging of the FIR, respondent No.2, perpetuated his illegal acts concerning the Disputed Property, the police was left with no other alternative but to initiate proceedings under Sections 145 and 146 of Cr. P.C. It is submitted that Sessions Judge has wrongly interfered with the well-reasoned order passed by the learned SDM, which is not sustainable in law. As such quashing of the impugned judgment dated 24.03.2025 passed by the Sessions Judge is prayed on behalf of the petitioner.

5. To the contrary, on behalf of respondent No.2, it is argued that proceedings conducted by the learned SDM are vitiated by procedural illegalities. It is submitted that the learned SDM decided the matter without recording any evidence, and without providing proper opportunity of hearing to the parties. It is argued that the learned SDM has exceeded jurisdiction while passing the order dated 07.11.2023, and the learned SDM ought not to have interfered in the matter as the dispute pertained to the jurisdiction of the Civil Court or the Rent Controller. It is argued that the *Disputed Property*, admittedly, being in possession of respondent No.2 as tenant, there existed no dispute concerning its possession. Respondent No.2 being in proper lawful possession of the shop in dispute, the learned SDM had no occasion to initiate proceedings under Section 146 of the Cr. P.C. and to appoint the receiver. It is submitted that the respondent No.2 is tenant in the disputed

shop since last more than 32 years, and is regularly paying rent, which was enhanced over the time. On the strength of these submissions, dismissal of the petition in hand is entreated for.

6. I have heard the learned counsel for the parties and perused the case record carefully.

7. Facts of the case, consisting of a series of litigation going on between the parties concerning the *Disputed Property,* make it amply clear that the real dispute existing between the parties *qua* the Disputed Property flows from the tenancy rights. The Landlord, through petitioner, prior to the filing of Kalandra by the police, had already filed Civil Suit dated 02.09.2023, against respondent No.2 in the court of learned Additional Civil Judge (Senior Division), Kurukshetra, bearing Civil Suit No.1192/2023. In that suit, vide order dated 02.09.2023 the Civil Judge, had already passed an interim injunction order against respondent No.2, restraining him from further demolishing/ damaging the suit property, carrying out any construction activity and changing the nature of the shop in question at the *Disputed Property*. In these circumstances, if respondent No.2 had raised the construction in violation of the Civil Judge order, the proper remedy with the petitioner was to approach the said Civil Court, in accordance with law, as has been rightly held by the Sessions Judge. But the landlord in his wisdom chose to enter the *Disputed Property* to stop respondent No.2 from raising construction, despite the injunction order in favour of the landlord. The said situation resulted in lodging of FIR case by the police against respondent No.2. The FIR was lodged on 02.09.2023. Still the landlord-petitioner visited the *Disputed Property* on 07.09.2023, made a fresh police complaint, resulting in filing of Kalandra by the police. All this has happened when

earlier the landlord-petitioner had sought eviction of respondent No.2 from the Disputed Property by filing Eviction Petition before the Rent Controller, which resulted in dismissal, though on the basis of compromise. The sequence of events gives rise to the inference about the keenness of the landlord-petitioner to oust respondent No.2 from the *Disputed Property*.

8. It defies logic and does not command acceptance that the police, on 02.09.2023 having set the criminal law into motion by registering an FIR against the respondent No.2 in the backdrop of the very same dispute was of such a nature as to be likely to occasion a breach of peace, warranting recourse to preventive proceedings. Such an abrupt *volte-face* on the part of the police authorities, in the absence of any discernible change in circumstances or emergence of fresh material casts a serious doubt on the *bona fides* of the action subsequently taken. The sequence of events, when viewed holistically, *prima facie,* suggests a lack of due application of mind and betrays arbitrary exercise of power, rather than a considered and objective satisfaction as is mandatorily required under the law. These facts hold all the more significance in view of the Civil Suit 1352 of 2023, filed by respondent No.2, whereby the police officers were restrained from interfering into the tenanted premises of respondent No.2, till the decision of that suit. In this backdrop, the initiation of proceedings under Section 145 Cr.P.C. appears not only excessive but also legally untenable. It is trite that the jurisdiction under Section 145 Cr.P.C. is essentially preventive in nature, to be invoked sparingly and only upon a genuine and imminent apprehension of breach of peace, founded on objective material. The provision cannot be permitted to be employed as a parallel mechanism to either circumvent or dilute the effect of orders passed by a Civil Court, nor can it be invoked to

indirectly achieve what is expressly prohibited. Therefore, the initiation of proceedings under Section 145 of the Cr. P.C. by the police in factual matrix of the instant case is clearly overboard and arbitrary.

9. The Hon'ble Supreme Court of India, in case of **Ashok Kumar v. State of Uttarakhand, 2013(1) RCR (Criminal) 961**, while dealing with the scope of Sections 145 and 146 of the Cr. P.C. has held as under:

> "*13. The ingredients necessary for passing an order under Section 145 (1) of the Code would not automatically attract for the attachment of the property. Under Section 146, a Magistrate has to satisfy himself as to whether emergency exists before he passes an order of attachment. A case of emergency, as contemplated under Section 146 of the Code, has to be distinguished from a mere case of apprehension of breach of the peace. The Magistrate, before passing an order under Section 146, must explain the circumstances why he thinks it to be a case of emergency. In other words, to infer a situation of emergency, there must be a material on record before Magistrate when the submission of the parties filed, documents produced or evidence adduced.*
>
> *14. We find from this case there is nothing to show that an emergency exists so as to invoke Section 146(1) and to attach the property in question. A case of emergency, as per Section 146 of the Code has to be distinguished from a mere case of apprehension of breach of peace. When the reports indicate that one of the parties is in possession, rightly or wrongly, the Magistrate cannot pass an order of attachment on the ground of emergency. The order acknowledges the fact that Ashok Kumar has started construction in the property in question, therefore, possession of property is with the appellant - Ashok Kumar, whether it is legal or not, is not for the SDM to decide.*"

10. The ratio of law laid down by the Hon'ble Supreme Court in the aforesaid judgment is squarely applicable to the facts of the present case also. In the present case, it is admitted case of the parties that respondent No.2 was in possession of the *Disputed Property* as tenant. His possession of the *Disputed Property* being fully valid and legitimate, the learned SDM had no occasion to appoint the receiver under Section 146 of Cr. P.C. *qua* the said property.

11. Provisions of Sections 145 and 146 of Cr. P.C. make it abundantly clear that initiation of proceedings therein, must demonstrate situation giving rise to imminent danger of breach of peace on the basis of

some tangible strong reasons. An abstruse portrayal of such circumstances, on the basis of bald assertions *sans* any supporting material, cannot furnish valid ground of initiation of proceedings under sections *ibid*. The Kalandra filed in the present case clearly spells camouflaged apprehension of breach of peace for the purposes of initiation of proceedings. The action undertook by the police, therefore, appears to have traversed beyond the permissible limits of statutory authority and partakes the character of colourable exercise of power. The allegations giving rise to filing of kalandra by police, clearly shows that the representatives of the petitioner-Sabha, entered the *Disputed Property*, which is admittedly under the possession of respondent No.2 as tenant. The act of the petitioner, in this regard, lacks *bona fides*, as just 05 days prior to the said incident an FIR had also been lodged against respondent No.2 at the instance of petitioner on the same cause. Moreover, there was an order passed by the Civil Judge on the subject of dispute between the parties. It is trite law that the breach of peace required as an ingredient of Section 145 of Cr. P.C. cannot be a generalised term, rather it ought to be deciphered in context with the public at large.

12. A perusal of the order dated 07.11.2023 passed by the learned SDM reveals that the same is couched in a most cryptic and laconic manner, bereft of any meaningful reasoning or adjudication. The order does not evince any application of mind, nor does it record any conclusive finding based on the material available on record. It falls conspicuously short of the settled requirement that a quasi-judicial authority must adhere to objective criteria and assign cogent reasons in support of its conclusions. The learned SDM, in a rather perfunctory manner, has merely directed the parties to desist from interfering with the land in dispute until further orders and

subject to the outcome of the civil proceedings. *Ergo,* the order dated 07.11.2023, passed by the learned SDM, neither discloses any discernible legal rationale nor aligns with the principles governing the exercise jurisdiction under Sections 145 and 146 of the Cr.P.C. Furthermore, in its order dated 07.11.2023 the learned SDM has failed to record the requisite independent satisfaction as contemplated under Section 146 Cr.P.C, particularly with regard to the existence of an emergency or the inability to decide the question of possession. In fact, the material on record indicates that the aspect of possession was neither indeterminable nor incapable of adjudication; it not only appears to have been evident, rather admitted. In such circumstances, the drastic measure of attachment of property and appointment of a receiver could not have been resorted in a routine or mechanical manner.

13. At this juncture, this Court deems it apposite to sound a note of caution.

The facts of the present case exemplify a disquieting and steadily growing tendency amongst litigants to invoke the criminal jurisdiction, not as a *bona fide* recourse for redressal of legitimate grievances, but as a convenient instrument to settle personal scores and wreak private vengeance. The case in hand bears a chequered history, deeply embedded with mutual acrimony, which appears to have propelled the parties into a form of judicial adventurism, reducing the solemn forum of adjudication into a battleground for the vindication of bruised egos. The Court must remain vigilant to discern whether the process of law is being invoked in good faith or is merely a colourable exercise, camouflaging an ulterior design. It is trite that *ex turpi causa non oritur actio*—no action

arises from an immoral cause—and equally that the process of the Court must not be permitted to be abused as a weapon of harassment or oppression. A profitable reference in this regard can be made to the observations made by the Hon'ble Supreme Court in ***Vishal Noble Singh Vs. State of Uttar Pradesh and Another; 2024 (14) SCC 112,*** relevant whereof reads thus:

> "*21. We find that in recent years the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission having an adverse impact on the fabric of our society must be nipped in the bud.*"

Furthermore, very recently, while raising concern over the growing tendency of using criminal law as a platform for initiation of vindictive proceedings to settle score, the Hon'ble Supreme Court in ***Paramjeet Singh Vs. State of Himachal Pradesh and Others; SLP (Criminal) No. 3415 of 2024*** observed as under:

> "*17. xxx xxx Criminal law ought not become a platform for initiation of vindictive proceedings to settle personal scores and vendettas. xxx xxx*"

This Court cannot lose sight of the broader institutional concern that such misuse engenders. The judicial system, already burdened with an onerous docket, is further strained when its time and resources are diverted towards adjudicating disputes that are, in essence, manifestations of personal vendetta rather than genuine legal controversies. Such practices not only impede the expeditious resolution of *bona fide* disputes but also erode public confidence in the sanctity and efficacy of the judicial process. A profitable reference in this regard can be made to the *dicta* passed by the Hon'ble Supreme Court in ***Chanchalpati Das Vs. The State of West Bengal and Another; 2023 AIR Supreme Court 2719,*** relevant whereof reads as under:

> "*20. We would like to add that just as bad coins drive out good coins from circulation, bad cases drive out good cases from being heard on time. Because of the proliferation of frivolous cases in the courts, the real and genuine cases have to take a backseat and are not being heard for years together. The party who initiates and continues a frivolous, irresponsible and senseless litigation or who abuses the process of the court must be saddled with exemplary cost, so that others may deter to follow such course.*"

Furthermore, in ***Subrata Roy Sahara Vs. Union of India and Others; 2014 (8) SCC 470,*** the Hon'ble Supreme Court observed as under:

> "*150. The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter litigants from their compulsive obsession, towards senseless and ill-considered claims. One needs to keep in mind, that in the process of litigation, there is an innocent sufferer on the other side, of every irresponsible and senseless claim. He suffers long drawn anxious periods of nervousness and restlessness, whilst the litigation is pending, without any fault on his part. He pays for the litigation, from out of his savings (or out of his borrowings), worrying that the other side may trick him into defeat, for no fault of his. He spends invaluable time briefing counsel and preparing them for his claim. Time which he should have spent at work, or with his family, is lost, for no fault of his. Should a litigant not be compensated for, what he has lost, for no fault? The suggestion to the legislature is, that a litigant who has succeeded, must be compensated by the one, who has lost. The suggestion to the legislature is to formulate a mechanism, that anyone who initiates and continues a litigation senselessly, pays for the same. It is suggested that the legislature should consider the introduction of a "Code of Compulsory Costs".*"

The principle *interest reipublicae ut sit finis litium* stands gravely undermined when parties indulge in frivolous or motivated proceedings. Equally, the phrase *'abuse of process of law'* is not a mere phrase but a substantive doctrine, obligating Courts to interdict proceedings that are initiated with oblique motives or for collateral purposes. It must, therefore, be emphatically reiterated that the judicial process is not a forum for settling personal animosities or advancing private vendettas. Any attempt to subvert it for such extraneous purposes deserves to be deprecated in the strongest possible terms. This Court is constrained to observe that recourse to criminal law must be tempered with responsibility, bona fides, and a

genuine cause of action, lest the majesty of law be compromised by its misuse.

14. In view of the above findings the Judgment passed by Sessions Judge, in Criminal Revision No.116 of 2023, does not suffer from any legal infirmity and as such is upheld. Resultantly, the present Criminal Miscellaneous Petition is **dismissed**.

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

(SUMEET GOEL)
JUDGE

April 20, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No