

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-4887-2024 (O&M)
Reserved on 01.03.2024
Pronounced on: 06.03.2024

Gurleen Singh Walia Petitioner

Versus

State of U.T. Chandigarh and another Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by : Mr. Vinod Ghai, Sr. Advocate with
Mr. Jasdev Singh Mehndiratta, Advocate and
Mr. Arnav Ghai, Advocate for the petitioner.

Mr. Manish Bansal, P.P., U.T., Chandigarh assisted by
Mr. Navjit Singh and Ms. Diksha Sharma, Advocates
SI Suresh Kumar.

Ms. Navdeender P.K. Singh, Advocate and
Mr. Gagandeep Rana, Advocate for respondent No.2.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.057 dated 03.05.2023 under Sections 420, 120-B of the IPC (Sections 467, 468 and 471 of the IPC added later on) registered at Police Station Central, Sector 17, Chandigarh.

SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR THE PETITIONER

2. Learned senior counsel for the petitioner has made the following submissions:-

2 (i). That the petitioner has been falsely implicated in the case at hand by her nephew, i.e. the complainant on account of a property dispute; the criminal proceedings which had been initiated by the

complainant and his mother were a gross abuse of the process of law and misuse of all the enforcement machinery; on an earlier occasion also an application had been filed under Section 156(3) of the Cr.P.C. by the complainant against the petitioner and her husband on the same facts, seeking registration of the FIR, but the same was rightly dismissed by the learned Trial Court on 19.04.2023, holding that a civil dispute was being given a criminal colour.

2 (ii). That the genesis of the dispute revolves around House No.47, Sector 27-A, Chandigarh (hereinafter referred as 'house in question'), which was solely owned by the father of the petitioner and grandfather of the complainant Ajit Singh (hereinafter referred to as 'the deceased'). Throughout his life, the deceased allowed only his daughter i.e. the petitioner and her children to reside in the house in question. The complainant never lived there with the deceased and even the father of the complainant resided at Kolkata where he was running some business. In addition, the complainant's parents were divorced in the year 2003 and thereafter the complainant along with his mother had been residing separately from the deceased at their accommodation in Manimajra, Chandigarh.

2 (iii). That the complainant and his mother had since long been eyeing the house in question and all their previous attempts to succeed in their designs had failed as it was a matter of record that the civil suit filed by the mother of the complainant seeking to restrain the deceased from alienating the house in question was dismissed by the Civil Court, Chandigarh vide judgment and decree dated 22.05.2014. A suit for specific performance with respect to an agreement to sell qua the house

in question had been filed by one Bhupinder Singh Bakshi which was also dismissed on 05.04.2014 by the Civil Court.

2 (iv). That in a Will executed by the deceased in 2007, he divided his properties equally between the petitioner and her brother (father of the complainant), however, father of the complainant passed away in the year 2010. Subsequently, the deceased executed a new Will in the year 2017 bequeathing all his properties solely to the petitioner, excluding the complainant and his sister with provisions for them, contingent upon certain conditions. Learned senior counsel submits that thus it was evident that from the very beginning, the deceased had desired to transfer the house in question in favour of the petitioner.

2 (v). That the right of the petitioner to the house in question stood further solidified when a Regular Second Appeal No.4310 of 2014 which had been filed by aforesaid Bhupinder Singh Bakshi to impugn the judgment dated 05.04.2014 passed by the Civil Court, was dismissed by the High Court in the year 2022. Thereafter, since there was no impediment, the deceased transferred the house in question in the name of the petitioner through a transfer deed in October, 2022; the petitioner who took care of her father i.e. the deceased during his illness and the transfer of the house in the name of the petitioner had been willingly done by the deceased himself. However, the complainant had objected to this transfer by sending a letter dated 17.01.2023 to the Estate Office purported to have been written by the deceased.

2 (vi). That the said objection letter by the complainant was forged by him with an oblique motive which fact stood corroborated from the opinion given by some handwriting experts in the said regard.

Not only this, the complainant had forged a Power of Attorney (POA) purportedly executed by the deceased in favour of one lawyer, Ms. Palak Dev as well as a Will wherein the deceased bequeathed 100% share in the house in question in the complainant's favour. In support, learned senior counsel has placed reliance upon Annexures P-13 to P-20.

2 (vii). That the complainant has levelled baseless allegations qua the No Objection Certificate (NOC) having been forged by the petitioner. He has cited the advance age of the deceased as well as his health as one of the factors that could have naturally lead to slight deviations in signatures on the documents which were sent to the FSL for comparison.

SUBMISSIONS OF RESPONDENT NO.2-COMPLAINANT

3. Learned counsel for respondent No.2-complainant has vehemently opposed the submissions made by the counsel opposite bby submitting as under:-

3 (i). That the petitioner exploited the ill health and trust of her own father, Ajit Singh, i.e. the deceased for her own gain. No doubt, the complainant, who is the grandson of the deceased, resided with his mother after the divorce of his parents in the year 2003; however, the complainant had a very close relationship with his grandfather, often staying at his house (house in question) for a few days every week, where he even had his own room and office from where he was practicing as a lawyer. Furthermore, even in his bank accounts, for example, the address given was of the house in question which clearly left no manner of doubt that the complainant was residing with both his

mother and as well as his grandfather in their respective houses, but he also enjoyed a cordial and warm relationship with his grandfather; on account of the fact that he was a struggling lawyer, his grandfather would deposit Rs.15,000/- into his bank account every month which fact was supported by his bank statement and it lent further credence to the complainant and his grandfather sharing a close bond.

3 (ii). That the deceased had executed two registered Wills, one on 01.09.2017 and another on 14.09.2020, bequeathing 65% of the ownership of the house in question to the petitioner and the remaining 35% to the complainant and his sister out of love for his grandchildren.

3 (iii). That in June, 2022, the complainant informed his aunt i.e. the petitioner about the deteriorating health of the deceased and requested her to visit India. However, the petitioner returned to India with a malicious intent to fraudulently get the ownership of the house in question transferred to herself, taking advantage of the illness of the deceased. Despite the fragile health of the deceased, the petitioner pressured him to undergo 20 radiations within a month, leaving him in a dying state before clandestinely leaving for the USA. Following this, the complainant took care of his grandfather i.e. the deceased and nursed him back to health. The deceased feeling deceived by the petitioner, wrote a letter to the Estate Office objecting to the transfer deed executed by him earlier in favour of the petitioner as the latter had taken undue advantage of his health and age.

3 (iv). That the deceased thereafter executed a Will in favour of the complainant bequeathing 100% share in house in question in his favour.

3 (v). That factually incorrect averments have been made by the petitioner that transfer deed was not challenged; it was a matter of record that the deceased himself in his lifetime had filed a civil suit to get the transfer deed dated 18.10.2022 cancelled.

3 (vi). That the allegations by the petitioner against the complainant of having forged the letter dated 17.01.2023, were made only after the registration of the instant FIR which clearly indicated that an attempt was being made by the petitioner to evade criminal liability.

3 (vii). That the petitioner with an oblique motive had isolated the deceased by giving specific instructions even in the hospital where the deceased was admitted, that no one except herself, her husband and one attendant be allowed to enter the ward of the deceased, and pressured him to sign an NOC under duress, which fact stood supported by an audio recording to the said effect. Attention of this Court is drawn to Annexure R-11, which is the transcription of said audio recording. When the petitioner could not succeed in her designs, she submitted false documents to the Estate Office, Chandigarh including a forged NOC, committing forgery against both the complainant as well as the State. On account of the serious nature of the offences, the Estate Officer had also forwarded a complaint qua the forgery committed by the petitioner to the DCP. In the meanwhile, the husband of the petitioner conveniently fled away from the country along with all the relevant and important documents pertaining to the house in question.

3 (viii). That the petitioner had been making attempts to impede the investigation by also extending threats to the complainant of dire consequences through a gangster named Bhupi Rana on her behalf, in

which regard, fearing for his life, the complainant had promptly forwarded a complaint to SSP Chandigarh (Annexure R-6).

3 (ix). That the complainant was threatened of dire consequences over the phone by the gangster when he was stiffly opposing the application filed by the petitioner for permission to go abroad. The conduct of the petitioner, thus, left no manner of doubt that she had been unabashedly misusing the concession of bail which had been initially granted to her under Sections 420 and 120-B of the IPC by colluding with anti social elements, which raised serious concerns about the safety of the complainant.

SUBMISSIONS OF LEARNED COUNSEL FOR U.T. CHANDIGARH

4. Learned Public Prosecutor appearing for U.T. Chandigarh has also on instructions submitted that the custodial interrogation of the petitioner was required as the report received from the FSL had confirmed that the documents including the NOC submitted before the Estate Office by the petitioner were forged documents. It has been further submitted that in addition to the aforestated, there was a serious flight risk posed by the petitioner given that she was a resident of USA and her husband had already left India. Learned Public Prosecutor has also corroborated that a complaint had been received from the complainant to the police with respect to the telephonic threats he had received from a gangster asking him to not pursue the case, else he would face dire consequences. Learned Public Prosecutor informed the Court that the matter was under investigation by the Punjab Police.

REBUTTAL BY THE PETITIONER

5. Learned senior counsel for the petitioner has vehemently rebutted the contentions made by the counsel for the complainant and the Public Prosecutor, U.T., Chandigarh with respect to the threats allegedly extended to the complainant by some gangster. It has been asserted that the petitioner has no connection with the alleged gangster whatsoever, who threatened the complainant. Learned senior counsel submits that in fact the petitioner herself had filed an application before the DGP, Chandigarh Police (Annexure P-45) to enquire into the alleged threats made to the complainant by some gangster named Bhupi Rana. It has been submitted that rather the petitioner had cooperated with the police by reporting the forgery committed by none other than the complainant.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. No doubt, the petitioner was indeed granted the concession of anticipatory bail by the learned Trial Court for offences under Sections 420, 120-B of the IPC. However, it is pertinent to note that when the concession of anticipatory bail was extended to the petitioner, the CFSL report had not been received. Subsequently, upon receipt of the CFSL report, it was revealed that the documents, including NOC allegedly executed in favour of the petitioner by the deceased, were forged documents. Furthermore, after the petitioner was granted the concession of anticipatory bail, the complainant allegedly received telephonic threats from some gangster, explicitly warning him against pursuing the case against the petitioner under threat of dire

consequences. These threats were promptly reported to the police by the complainant.

8. Although learned senior counsel for the petitioner vehemently argued that there existed no concrete evidence to link the petitioner with the alleged telephonic threats received by the complainant, however, as per the complaint given by the complainant to the police, the threat calls pertained to pressurizing the complainant to withdraw present case, which aspect would warrant a thorough investigation.

9. Additionally, it would also be relevant to highlight an undisputed fact, regarding the circumstances surrounding the alleged issuance of the NOC by the deceased. It is a matter of record that the deceased was indisputably hospitalized in a serious condition at the time when the NOC was purportedly executed. Despite the vehement assertions made by learned senior counsel for the petitioner regarding the deceased being in a sound mental state at the time of the execution of the NOC, documentary evidence including the medical records and photographs which have been placed on record by the complainant clearly depict the deceased in poor health, with medical apparatuses attached to his body.

10. Given the totality of circumstances, including the alleged threats extended to the complainant by a gangster coupled with the potential flight risk posed by the petitioner, who is a resident of the USA, this Court does not deem it fit to extend the extraordinary concession of anticipatory bail to her.

11. Accordingly, the instant petition is hereby dismissed.

12. Pending applications, if any, stand disposed of.
13. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

06.03.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No