

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22042 of 2015 (O&M)

Date of Decision:22.7.2015

Vinod Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Argued by: Mr. Yogesh Goel, Advocate for the petitioner.
 Mr. B.S. Bhullar, DAG, Punjab for the respondent.
 Mr. Arun Khurmi, Advocate for the complainant.

NAVITA SINGH, J.

1. The present petition is filed under Section 438 Cr.P.C. on the ground that the dispute is of civil nature and the petitioner had nothing to do with the affidavit of Monika Khurmi.
2. FIR in the present case was registered on the complaint of Monika Khurmi, wife of Arun Khurmi, daughter of Bala Rani, who alleged that the accused had used a forged affidavit dated 12.6.2014 purportedly sworn by her but actually she had not got prepared and attested any such affidavit. Riya Malhotra had impersonated Monika Khurmi. Mutation on the basis of forged Will allegedly executed by Bala Rani was got sanctioned on the basis of the said affidavit.
3. Counsel for the petitioner submitted that Monika Khurmi daughter Bala Rani had already filed a civil suit against various persons including the petitioner and his family members. The petitioner was neither the beneficiary under the Will nor had he anything do with the affidavit of the complainant, even if it was forged.

4. Counsel for the complainant as also the State counsel submitted that it would be clear from the photograph on the affidavit that it was not of the complainant. Copy of identity card of the complainant was filed along with the PAN card showing that the actually Monika Khurmi i.e. the complainant, was not the person who had sworn the affidavit in question because at the time of attestation, her photograph was not affixed on the affidavit before the Executive Magistrate. In that photograph there was some other face i.e. of Riya Malhotra.

5. Furthermore, during investigation, it was found that accused Riya Malhotra wife of accused Ajay Kumar Malhotra had made a statement that she had made the affidavit on the asking of her father-in-law Vinod Kumar Malhotra i.e. the present petitioner. She signed the affidavit on his behest. Ajay Kumar Malhotra, son of the petitioner, was the beneficiary under the Will on the basis of which mutation was entered. Even at the time of mutation, photograph of the petitioner is there which the petitioner side could not deny.

6. Regarding the declaration sought by the complainant from the Civil Court, the matter may be of civil nature so far as the devolution of the properties of Bala Rani is concerned, but the forgery of the Will and affidavit would constitute offences under the Indian Penal Code.

7. So far as the Will is concerned, the petitioner may not be the direct beneficiary, yet in view of the fact that the affidavit of the complainant was forged as is shown from the documents filed by the complainant, and in view of the statement made by Riya Malhotra that she had impersonated Monika Khurmi on the asking of the petitioner, no ground for grant of anticipatory bail at all is made out. The petition is dismissed.

8. Nothing stated above should be taken as any expression on the merits of the case.

(NAVITA SINGH)
JUDGE

22.7.2015
ishwar