

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-29150 of 2010 (O&M)

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Date of decision:11.2.2015

Vijay Kapoor and others

...Petitioners

v.

State of Punjab and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. V.K. Sandhir, Advocate for the petitioners.

Mr. S.S. Chandumajra, Deputy Advocate General, Punjab for
the respondent-State.

Mr. Sandeep Wadhawan, Advocate for complainant-
respondent No.2.

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Inderjit Singh, J.

The petitioners have filed this petition under Section 482 Cr.P.C. for quashing of FIR No.76 dated 20.7.2008 (Annexure-P.1) registered for the offences under Sections 419, 420, 465, 466, 467, 468, 471, 474 and 120-B IPC at Police Station 'D' Division Amritsar, District Amritsar and all consequential proceedings arising therefrom.

It is mainly stated in the present petition that Lala Peda Mal was owner in possession of the property measuring 5 Kanals 1 Marlas bearing Khasra No. (old) 1446 and Khasra Bandobast No.1892 and No.766 outside Lohgarh Gate, Bagichi Peda Mal, Amritsar. During his life time, he

executed a Will dated 8.1.1897 qua the aforesaid property. The Will was executed in favour of his sons, namely, Ram Gopal, Ram Pal, Ram Dass Mall, Ram Lal, Ram Krishan and Ram Sukh. It was mentioned in the Will that there were three rooms with open plot, a garden, Thakurdwara and Shivala constructed by Lal Peda Mal during his life time on the said property. Aforesaid Lala Peda Mal died before 1936. After his death, certain dispute arose amongst the beneficiaries of the Will and the matter was referred to an Arbitrator and award was passed on 4.6.1936, which was duly registered. As per the arbitration award, it was specifically mentioned that the land where Mandir Thakurdwara and Shivala is situated, the management of the same shall be referred to one Committee and few members will be appointed on that Committee. Meaning thereby the Managing Committee would constitute appointed members to look after the Mandir Thakurdwara and Shivala. The property where Mandir Thakurdwara and Shivala are in existence, was declared as charitable property and the management for the mentioned charitable property was given to the trustees, namely, Ram Lal, Ram Sukh and Ram Pal and it was also announced that the management of the Committee, which is a charitable property, will be looked after by the descendants of the persons, whose names were mentioned in the Will. It is also stated that the Pujari appointed was also liable to be evicted from the charitable trust property by the trustees. The power for collecting rent was given to the trustees. It is stated that in the month of February 2000, respondent No.2, namely, Ramesh Talwar, with his evil designs tried to hand over the possession of

the aforesaid charitable property to Shri Durgiana Committee. When it came to the notice of trustees as well as the general public, there was mass protest and the matter was in news for quite some time, ultimately, the aforesaid Ramesh Talwar had to bow before the pressure of the public as well as before the genuine and actual Managing Committee of Lala Peda Mal Trust.

Notice of motion has been issued in this case.

Mr. S.S. Chandumajra, learned Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and Mr. Sandeep Wadhawan, learned Advocate has appeared on behalf of complainant-respondent No.2 and contested this petition.

I have heard learned counsel for the petitioners and learned Deputy Advocate General, Punjab appearing for the respondent-State as well as learned counsel for complainant-respondent No.2 and have gone through the record.

From the record, I find that the FIR in the present case has been registered on the basis of application against the present petitioners on the same facts as stated above. It is stated that a Committee of descendants of Lala Peda Mal Kapoor continued managing the religious and charitable property of Mandir till a decade ago. Then they confessed inability to handle the affairs and management of religious and charitable property (Mandir) of Shri Peda Mal Kapoor and they handed over the management of affairs of this Mandir property to a religious organization of the Hindus. This religious organization never took possession of this property and never

cared to manage its affairs. Taking undue advantage of such a confused state of affairs, Vijay Kapoor without any lawful authority from legal descendants of Shri Peda Mal Kapoor, frivolously created an illegal trust to take forcible possession and misappropriate Mandir Peda Mal Kapoor religious and charitable property.

At the time of arguments, learned counsel for the petitioners argued that, insofar as, the proceedings before the Rent Controller as well as the civil Court, the Court decided the matter in favour of the present petitioners on the basis of Trust Deed. At the time of arguments, it has been brought to my notice that Vijay Kapoor etc. are the descendants of Peda Mal. The dispute between the parties is of civil nature where they are challenging the Trust Deeds. There is nothing on the record to show that any documents etc. have been forged or there is any cheating. From the record, it is clear that the dispute is regarding managing the charitable properties of Lala Peda Mal regarding which the Trust has been formed.

Therefore, from the perusal of the record, I find that the filing of this FIR is nothing, but an abuse of the process of the law. Instead of deciding the dispute from the civil Court regarding the management of the charitable properties, this FIR was got registered to settle the dispute regarding the management of the Trust.

Therefore, from the above discussion, finding merit in the present petition, the same is allowed. FIR No.76 dated 20.7.2008 (Annexure-P.1) registered for the offences under Sections 419, 420, 465, 466, 467, 468, 471, 474 and 120-B IPC at Police Station 'D' Division

Amritsar, District Amritsar and all consequential proceedings arising out of the same are hereby quashed.

February 11, 2015.

(Inderjit Singh)
Judge

hsp