

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-29155 of 2012 (O&M)

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Date of decision:11.2.2015

Kewal Krishan Kapoor and others

...Petitioners

v.

State of Punjab and another

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Veneet Sharma, Advocate for the petitioners.

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

Mr. V.K. Sandhir, 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.9 dated 9.1.2011 (Annexure-P.7) registered for the offences under Sections 420, 468 and 471 IPC at Police Station Civil Lines Amritsar, District Amritsar and all consequential proceedings arising therefrom.

As per the facts given in the petition, Lala Peda Mal executed a Will dated 8.1.1897, wherein he had stated that after his death his sons Ram Gopal, Ram Pal, Ram Lal, Ram Dass Mal, Ram Kishan and Ram Sukh, would have all powers regarding the temple in question. Petitioner No.1

Kewal Krishan Kapoor is the grandson of Ram Lal Kapoor, petitioner No.2 Naresh Kumar Kapoor is the great grandson of Ram Dass Mal and petitioner No.3 Sham Lal Kapoor is the grandson of Ram Kishan, whereas, the complainant Vijay Kapoor is the descendant of Ram Sukh. It is stated that with the afflux of time, the number of descendants of Lala Peda Mal became very large and some of them left the city and settled outside in connection with their work. It is stated that taking benefit of their absence, the complainant started proclaiming himself to be the Manager of the Mandir and he formed a Trust of the Mandir property in the year 2000 by making most of his immediate family members as trustees. It is also stated in the petition that the complainant along with other family members filed a civil Suit No.71 dated 4.8.1999 for permanent injunction against the descendants of Lala Peda Mal Kapoor including petitioner No.1 and 3 and said suit was withdrawn. It is also stated that the complainant started misusing the property of the Mandir and FIR No.76 dated 20.7.2008 was registered at Police Station 'D' Division Amritsar, District Amritsar against him and his co-accused.

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. V.K. Sandhir, 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 dated 9.8.2010, in which it is stated that action may be taken against land mafia for getting false Trust registered from the Additional Registrar of Societies, Lohgarh Gate, Amritsar, in the name of Mandir Peda Mal Kapoor and Dharamshala Managing Committee, Outside Lohgarh Gate, Amritsar for misappropriating the ancestral Mandir and its property against Ramesh Talwar, Radha Krishan Sharma etc. accused. It is also stated in the FIR that Vijay Kapoor is Secretary of Mandir Thakurdwara and Shivala Trust and as per the Will of complainant's grandfathers and great-grandfathers of the year 1897 and as per the arbitration proceedings held in the year 1936, one Mandir Thakurdwara and Shivala inside Lohgarh Gate Bagichi Peda Mal was formed, and in the Mandir a Pujari was kept for doing Puja and none of the trustees had a right to transfer or sell the property outside. In February 2000, a person by the name of Ramesh Talwar, who was Secretary of the Durgiana Mandir at that time with his bad intention and after taking bribe from the Durgiana Mandir, along with the then trustees, the Pujari of the Mandir and in connivance with his sons in order to give the Mandir Thakurdwara and Shivala in the hands of the Durgiana Mandir came, but the persons of the 'Abadi' and the persons who used to perform puja in the Mandir stopped him from doing so and this remained in the newspapers at that time.

From the perusal of the FIR and from the arguments of the

learned counsel for the parties, I find that the dispute is regarding the management of Thakurdwara and Shivala left by Lala Peda Mal. A Trust has been got registered by respondent No.2 Vijay Kapoor and the petitioners also alleged that they are also the descendants of Lala Peda Mal. The dispute between both the parties is regarding managing the Trust property, which is of civil nature. It is also clear from the averments made in the petition itself that civil suits were also filed for permanent injunction etc. before the civil Court. As complainant Vijay Kapoor as well as some of the petitioners are descendants of Lala Peda Mal and the properties were constructed and left by Lala Peda Mal as per the Will of the year 1897, therefore, the mere registration of the Trust etc., in no way, can be held as forged and fabricated documents or amounts to cheating. Rather, this dispute that who is entitled to maintain the properties is of civil nature and it is to be decided by the civil Court. No criminal offence is made out from the FIR and the registration of the FIR in this case is nothing, but an abuse of the process of the law.

Therefore, finding merit in the present petition, the same is allowed and FIR No.9 dated 9.1.2011 (Annexure-P.7) registered for the offences under Sections 420, 468 and 471 IPC at Police Station Civil Lines Amritsar, District Amritsar and all consequential proceedings arising out of the same are hereby quashed.

February 11, 2015.

(Inderjit Singh)
Judge

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