

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRM-M No.27760 of 2014.

Date of Decision: July 17, 2015.

Surender Singh

....Petitioner.

VERSUS

Kashmir Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Aayush Gupta, Advocate for the petitioner.

SNEH PRASHAR, J.

A petition under Section 482 of the Code of Criminal Procedure (in short, "Cr.P.C.") was filed by the petitioner for quashing of order dated 20.04.2011 passed by learned Judicial Magistrate Ist Class, Kaithal in Criminal Complaint No.RBT-489 of 2007 and order dated 06.06.2014 passed by learned Additional Sessions Judge, Kaithal in Criminal Revision No.152 of 2013.

A complaint filed by the petitioner under Sections 406/419/420/467/471/504/506/199 read with Section 120-B of the Indian Penal

Code (in short, "I.P.C.") against Kashmir Singh and others was dismissed by learned Judicial Magistrate Ist Class, Kaithal vide order dated 20.04.2011 on the ground that there was no sufficient material to charge sheet the respondent and accordingly he was discharged. The petitioner preferred a revision petition against the order of learned Magistrate which was dismissed by learned Additional Sessions Judge, Kaithal, vide order dated 06.06.2014. Assailing the said orders, the petitioner initiated the instant petition invoking the provision of Section 482 Cr.P.C. and prayed for quashing of the orders.

The allegations of the petitioner were that respondent Kashmir Singh and his brother Ram Sarup alongwith Dharam Singh (father of the petitioner) had got a civil decree passed in their favour in Civil Suit No.1105 of 1990 pending in the Court of Sub Judge Ist Class, Kaithal by impersonating Jailla (father of Fatta, accused No.3) arrayed as defendant No.1 in the suit. He alleged that a criminal conspiracy was hatched to grab his share.

After the petitioner adduced preliminary evidence, learned trial court called for report of the police as envisaged under Section 202 Cr.P.C. and after receipt of report only respondent Kashmir Singh was summoned as an accused. The petitioner led pre-charge evidence, considering which learned trial court came to the conclusion that there was no material for serving charge sheet on the respondent.

Heard the submissions made by learned counsel representing the petitioner.

Learned counsel for the petitioner argued that a Finger Print and Handwriting Expert was examined as PW1 in pre-charge evidence of the petitioner who proved that the thumb impressions on the disputed documents were not of Jailla who was arrayed as defendant in the civil suit. Learned counsel also submitted that another ground on which the complaint of the petitioner was dismissed was that his father Dharam Singh was also a beneficiary of the impugned decree, but was not impleaded as accused in the complaint. The fact was that father of the petitioner Dharam Singh was blind and taking advantage of his disability, the respondent had got the decree suffered in his favour and he only was responsible for the fraud and forgery done.

There appears no merit in the argument of learned counsel for the petitioner. The report after investigation submitted by the police under Section 202 Cr.P.C. was summed up by learned Additional Sessions Judge in his order dated 06.06.2014 as under:-

“It is mentioned in the investigation report that Dharam Singh, Ram Sarup and Kashmir Singh all the three brothers purchased land in the year of 1964-65, which was later on partition in between them. Out of that land, they have purchased 68 kanals 4 marlas land from Joginder Singh and Mohinder Singh, who had purchased the land from Jailla Ram. Out to that land 2 kanals 8 marlas land was left due to mistake. In the year of 1990, Jailla Ram suffered a decree in favour of Dharam Singh, Kashmir Singh and Ram Sarup. The son of Jailla named Fatta challenged the decree but his suit was dismissed as he has admitted the decree to be correct and legal. Thereafter, Dharam Singh filed a suit in civil Court

challenging the mutation, which was dismissed upto Hon'ble High Court. It was found that the father of the complainant Dharam Singh lost all the cases filed by him. Now the complainant has filed the present complaint. It was concluded in report that the allegations are not proved.”

The other relative facts appearing in the evidence led by the petitioner were noticed by learned Additional Sessions Judge in Para No.13 of the order which are as under:-

“The facts regarding filing of suit by Fatta and dismissal of the same is admitted by the complainant while appearing as PW-2 in cross-examination. The dismissal of the suit regarding mutation of partition filed by his father Dharam Singh upto Hon'ble High Court is also admitted by him. He further admitted that his real grouse is that the passage has not been provided to him during partition. In this way, it is made out that only due to this reason, he has filed the complaint and there is no substance in the complaint. It is also argued for respondent at the time of argument that the civil suit filed by the father of the complainant challenging the decree in question in civil Court has been dismissed. This argument could not be denied by complainant-revisionist. Therefore, it can not be said that the decree was obtained by fraud.”

As far as the report submitted by Finger Print and Handwriting Expert examined by the petitioner is concerned, learned trial court observed that the same could not be relied upon as the expert had compared the thumb impressions from the photocopies and the expert admitted that two of the thumb impressions were not fit for comparison and on the third he had not dotted the intervening ridges.

Learned counsel for the petitioner failed to demonstrate any misappreciation or misreading of evidence led by the petitioner either by learned Magistrate or by learned revisional court. The petitioner alleged that his father was blind and taking advantage of his disability the respondent had got the impugned decree passed whereas from the evidence, as observed above, it is proved that his father had filed multiple litigations challenging the decree/mutation etc. which all were dismissed.

Thus, there being no adversity or perversity warranting intervention in the order dated 20.04.2011 and order dated 06.06.2014 passed by learned Judicial Magistrate Ist Class, Kaithal and learned Additional Sessions Judge, Kaithal respectively and the instant petition being completely devoid of merit is dismissed.

(SNEH PRASHAR)
JUDGE

July 17, 2015
jitender

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRM-M No.27760 of 2014.

Date of Decision: July 17, 2015.

Surender Singh

....Petitioner.

VERSUS

Kashmir Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Aayush Gupta, Advocate for the petitioner.

SNEH PRASHAR, J.

A petition under Section 482 of the Code of Criminal Procedure (in short, "Cr.P.C.") was filed by the petitioner for quashing of order dated 20.04.2011 passed by learned Judicial Magistrate Ist Class, Kaithal in Criminal Complaint No.RBT-489 of 2007 and order dated 06.06.2014 passed by learned Additional Sessions Judge, Kaithal in Criminal Revision No.152 of 2013.

A complaint filed by the petitioner under Sections 406/419/420/467/471/504/506/199 read with Section 120-B of the Indian Penal

Code (in short, "I.P.C.") against Kashmir Singh and others was dismissed by learned Judicial Magistrate Ist Class, Kaithal vide order dated 20.04.2011 on the ground that there was no sufficient material to charge sheet the respondent and accordingly he was discharged. The petitioner preferred a revision petition against the order of learned Magistrate which was dismissed by learned Additional Sessions Judge, Kaithal, vide order dated 06.06.2014. Assailing the said orders, the petitioner initiated the instant petition invoking the provision of Section 482 Cr.P.C. and prayed for quashing of the orders.

The allegations of the petitioner were that respondent Kashmir Singh and his brother Ram Sarup alongwith Dharam Singh (father of the petitioner) had got a civil decree passed in their favour in Civil Suit No.1105 of 1990 pending in the Court of Sub Judge Ist Class, Kaithal by impersonating Jailla (father of Fatta, accused No.3) arrayed as defendant No.1 in the suit. He alleged that a criminal conspiracy was hatched to grab his share.

After the petitioner adduced preliminary evidence, learned trial court called for report of the police as envisaged under Section 202 Cr.P.C. and after receipt of report only respondent Kashmir Singh was summoned as an accused. The petitioner led pre-charge evidence, considering which learned trial court came to the conclusion that there was no material for serving charge sheet on the respondent.

Heard the submissions made by learned counsel representing the petitioner.

Learned counsel for the petitioner argued that a Finger Print and Handwriting Expert was examined as PW1 in pre-charge evidence of the petitioner who proved that the thumb impressions on the disputed documents were not of Jailla who was arrayed as defendant in the civil suit. Learned counsel also submitted that another ground on which the complaint of the petitioner was dismissed was that his father Dharam Singh was also a beneficiary of the impugned decree, but was not impleaded as accused in the complaint. The fact was that father of the petitioner Dharam Singh was blind and taking advantage of his disability, the respondent had got the decree suffered in his favour and he only was responsible for the fraud and forgery done.

There appears no merit in the argument of learned counsel for the petitioner. The report after investigation submitted by the police under Section 202 Cr.P.C. was summed up by learned Additional Sessions Judge in his order dated 06.06.2014 as under:-

“It is mentioned in the investigation report that Dharam Singh, Ram Sarup and Kashmir Singh all the three brothers purchased land in the year of 1964-65, which was later on partition in between them. Out of that land, they have purchased 68 kanals 4 marlas land from Joginder Singh and Mohinder Singh, who had purchased the land from Jailla Ram. Out to that land 2 kanals 8 marlas land was left due to mistake. In the year of 1990, Jailla Ram suffered a decree in favour of Dharam Singh, Kashmir Singh and Ram Sarup. The son of Jailla named Fatta challenged the decree but his suit was dismissed as he has admitted the decree to be correct and legal. Thereafter, Dharam Singh filed a suit in civil Court

challenging the mutation, which was dismissed upto Hon'ble High Court. It was found that the father of the complainant Dharam Singh lost all the cases filed by him. Now the complainant has filed the present complaint. It was concluded in report that the allegations are not proved.”

The other relative facts appearing in the evidence led by the petitioner were noticed by learned Additional Sessions Judge in Para No.13 of the order which are as under:-

“The facts regarding filing of suit by Fatta and dismissal of the same is admitted by the complainant while appearing as PW-2 in cross-examination. The dismissal of the suit regarding mutation of partition filed by his father Dharam Singh upto Hon'ble High Court is also admitted by him. He further admitted that his real grouse is that the passage has not been provided to him during partition. In this way, it is made out that only due to this reason, he has filed the complaint and there is no substance in the complaint. It is also argued for respondent at the time of argument that the civil suit filed by the father of the complainant challenging the decree in question in civil Court has been dismissed. This argument could not be denied by complainant-revisionist. Therefore, it can not be said that the decree was obtained by fraud.”

As far as the report submitted by Finger Print and Handwriting Expert examined by the petitioner is concerned, learned trial court observed that the same could not be relied upon as the expert had compared the thumb impressions from the photocopies and the expert admitted that two of the thumb impressions were not fit for comparison and on the third he had not dotted the intervening ridges.

Learned counsel for the petitioner failed to demonstrate any misappreciation or misreading of evidence led by the petitioner either by learned Magistrate or by learned revisional court. The petitioner alleged that his father was blind and taking advantage of his disability the respondent had got the impugned decree passed whereas from the evidence, as observed above, it is proved that his father had filed multiple litigations challenging the decree/mutation etc. which all were dismissed.

Thus, there being no adversity or perversity warranting intervention in the order dated 20.04.2011 and order dated 06.06.2014 passed by learned Judicial Magistrate Ist Class, Kaithal and learned Additional Sessions Judge, Kaithal respectively and the instant petition being completely devoid of merit is dismissed.

(SNEH PRASHAR)
JUDGE

July 17, 2015
jitender

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRM-M No.27760 of 2014.

Date of Decision: July 17, 2015.

Surender Singh

....Petitioner.

VERSUS

Kashmir Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Aayush Gupta, Advocate for the petitioner.

SNEH PRASHAR, J.

A petition under Section 482 of the Code of Criminal Procedure (in short, "Cr.P.C.") was filed by the petitioner for quashing of order dated 20.04.2011 passed by learned Judicial Magistrate Ist Class, Kaithal in Criminal Complaint No.RBT-489 of 2007 and order dated 06.06.2014 passed by learned Additional Sessions Judge, Kaithal in Criminal Revision No.152 of 2013.

A complaint filed by the petitioner under Sections 406/419/420/467/471/504/506/199 read with Section 120-B of the Indian Penal

Code (in short, "I.P.C.") against Kashmir Singh and others was dismissed by learned Judicial Magistrate Ist Class, Kaithal vide order dated 20.04.2011 on the ground that there was no sufficient material to charge sheet the respondent and accordingly he was discharged. The petitioner preferred a revision petition against the order of learned Magistrate which was dismissed by learned Additional Sessions Judge, Kaithal, vide order dated 06.06.2014. Assailing the said orders, the petitioner initiated the instant petition invoking the provision of Section 482 Cr.P.C. and prayed for quashing of the orders.

The allegations of the petitioner were that respondent Kashmir Singh and his brother Ram Sarup alongwith Dharam Singh (father of the petitioner) had got a civil decree passed in their favour in Civil Suit No.1105 of 1990 pending in the Court of Sub Judge Ist Class, Kaithal by impersonating Jailla (father of Fatta, accused No.3) arrayed as defendant No.1 in the suit. He alleged that a criminal conspiracy was hatched to grab his share.

After the petitioner adduced preliminary evidence, learned trial court called for report of the police as envisaged under Section 202 Cr.P.C. and after receipt of report only respondent Kashmir Singh was summoned as an accused. The petitioner led pre-charge evidence, considering which learned trial court came to the conclusion that there was no material for serving charge sheet on the respondent.

Heard the submissions made by learned counsel representing the petitioner.

Learned counsel for the petitioner argued that a Finger Print and Handwriting Expert was examined as PW1 in pre-charge evidence of the petitioner who proved that the thumb impressions on the disputed documents were not of Jailla who was arrayed as defendant in the civil suit. Learned counsel also submitted that another ground on which the complaint of the petitioner was dismissed was that his father Dharam Singh was also a beneficiary of the impugned decree, but was not impleaded as accused in the complaint. The fact was that father of the petitioner Dharam Singh was blind and taking advantage of his disability, the respondent had got the decree suffered in his favour and he only was responsible for the fraud and forgery done.

There appears no merit in the argument of learned counsel for the petitioner. The report after investigation submitted by the police under Section 202 Cr.P.C. was summed up by learned Additional Sessions Judge in his order dated 06.06.2014 as under:-

“It is mentioned in the investigation report that Dharam Singh, Ram Sarup and Kashmir Singh all the three brothers purchased land in the year of 1964-65, which was later on partition in between them. Out of that land, they have purchased 68 kanals 4 marlas land from Joginder Singh and Mohinder Singh, who had purchased the land from Jailla Ram. Out to that land 2 kanals 8 marlas land was left due to mistake. In the year of 1990, Jailla Ram suffered a decree in favour of Dharam Singh, Kashmir Singh and Ram Sarup. The son of Jailla named Fatta challenged the decree but his suit was dismissed as he has admitted the decree to be correct and legal. Thereafter, Dharam Singh filed a suit in civil Court

challenging the mutation, which was dismissed upto Hon'ble High Court. It was found that the father of the complainant Dharam Singh lost all the cases filed by him. Now the complainant has filed the present complaint. It was concluded in report that the allegations are not proved.”

The other relative facts appearing in the evidence led by the petitioner were noticed by learned Additional Sessions Judge in Para No.13 of the order which are as under:-

“The facts regarding filing of suit by Fatta and dismissal of the same is admitted by the complainant while appearing as PW-2 in cross-examination. The dismissal of the suit regarding mutation of partition filed by his father Dharam Singh upto Hon'ble High Court is also admitted by him. He further admitted that his real grouse is that the passage has not been provided to him during partition. In this way, it is made out that only due to this reason, he has filed the complaint and there is no substance in the complaint. It is also argued for respondent at the time of argument that the civil suit filed by the father of the complainant challenging the decree in question in civil Court has been dismissed. This argument could not be denied by complainant-revisionist. Therefore, it can not be said that the decree was obtained by fraud.”

As far as the report submitted by Finger Print and Handwriting Expert examined by the petitioner is concerned, learned trial court observed that the same could not be relied upon as the expert had compared the thumb impressions from the photocopies and the expert admitted that two of the thumb impressions were not fit for comparison and on the third he had not dotted the intervening ridges.

Learned counsel for the petitioner failed to demonstrate any misappreciation or misreading of evidence led by the petitioner either by learned Magistrate or by learned revisional court. The petitioner alleged that his father was blind and taking advantage of his disability the respondent had got the impugned decree passed whereas from the evidence, as observed above, it is proved that his father had filed multiple litigations challenging the decree/mutation etc. which all were dismissed.

Thus, there being no adversity or perversity warranting intervention in the order dated 20.04.2011 and order dated 06.06.2014 passed by learned Judicial Magistrate Ist Class, Kaithal and learned Additional Sessions Judge, Kaithal respectively and the instant petition being completely devoid of merit is dismissed.

(SNEH PRASHAR)
JUDGE

July 17, 2015
jitender