

CRM-M-41549-2013

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision:21.08.2015

Dilshad and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Harish Bhardwaj, Advocate,
for the petitioners.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Saurabh Bajaj, Advocate,
for respondent No.2.

SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.36 dated 09.02.2013, under Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Shahabad, District Kurukshetra and all consequential proceedings arising therefrom.

Learned counsel for the petitioners has submitted that FIR in question was liable to be quashed as on the same allegations, civil litigation was pending between the parties. In fact, the FIR was lodged with a view to pressurize the petitioners in the civil litigation. Petitioners had also got

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lodged FIR against respondent No.2 and others (Annexure P-5).

Learned counsel has placed reliance on Ch. Nasib Singh versus State of Punjab and another 2012(4) Cri.CC 1, wherein, it has been held as under:-

“8. There is another aspect of the matter, which can be viewed from a different angle. If the crux of the contents of the documents is put together and is perused, then the conclusion is irresistible that the dispute between the parties is purely a civil in nature. It is not a matter of dispute that question of title/ownership and possession of house in dispute, would be the moot point to be decided by the civil courts indifferent suits between the parties as described hereinbefore. It is now well recognized principle of law that the matter, which essentially involves the dispute of civil nature, cannot legally be allowed to become subject matter of criminal proceeding. It is not a matter of dispute that the jurisdiction of civil and criminal Courts is entirely different and distinct from each other. The matter, which squarely falls within the ambit and jurisdiction of the civil court, cannot legally be permitted to be re-agitated in parallel proceedings in the criminal court. As the civil suits are already pending

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between the parties with regard to the same subject matter, therefore, the complainant cannot legally be again permitted to re-agitate the same very dispute in the garb of criminal prosecution, by way of impugned FIR. The complainant cannot be permitted to execute a non-existent civil court decree by putting pressure of a criminal case against the petitioner. Otherwise there will be no end of unwarranted litigation and it will inculcate and perpetuate injustice to the petitioner in this relevant connection.”

Prosecution story, in brief, is that the complainant Shahid Ahmad @ Surinder, Babu and Joginder were sons of Masita and Dakhi. Babu had died on 19.01.1992. Dakhi was owner of 38 kanals 5 marls of land. Dakhi died on 06.07.2001 leaving behind the complainant, Babu and Joginder as her only legal heirs. Khaira was not the legally wedded wife of Masita, rather Khaira was married to Barkat. Bachna Khan was son of Khaira, whereas Dilshad, Shamshad and Mehboob Khan were sons of Mohinder. Petitioners were not the sons/grandsons of Dakhi. However, petitioners got mutation sanctioned in their favour by producing forged and fabricated documents qua the property of Dakhi, alleging themselves to be sons/grand-sons of Dakhi.

After completion of investigation and necessary

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formalities, challan was presented against the petitioners and now the case is pending before the trial Court for prosecution evidence.

Petitioner No.1 had lodged FIR No.53 dated 21.02.2013 at Police Station Shahabad under Sections 420, 467, 468, 471 and 120-B IPC, against respondent No.2 and others, alleging therein that mutation had been sanctioned in favour of the complainant party, qua property owned by Dakhi, being her legal heirs. However, the accused, on the basis of forged and fabricated documents had sought partition of the said land. FIR got registered by the petitioners was also duly enquired and after completion of investigation and necessary formalities, challan has been presented against the respondent No.2 and his co-accused.

Thus, in the present case, both the sides have lodged criminal proceedings against each other and challan has been presented in both the FIR i.e. Annexure P-4 and P-5 before the Court. So far as the filing of the civil suit by the complainant-party (Annexure P-2) is concerned, although, in the said suit also, the complainant-party has sought declaration that they are owners in possession of the suit land and have challenged the mutation No.2520 sanctioned in favour of the petitioners, but in the FIR, the allegations levelled against the petitioners are qua forgery and cheating.

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Civil and Criminal Proceedings can go side by side.

In view of the facts and circumstances of the present case, the judgment relied upon by the learned counsel for the petitioners fails to advance the case of the petitioners as the same is based on different facts.

Hence, no ground for interference by this Court is made out.

Dismissed.

August 21, 2015
kapil

(SABINA)
JUDGE