

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

CR No.7217 of 2010 (O&M)

Date of decision : 19.09.2016

Sunil Kumar

...Petitioner

Versus

Gurdev Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. D.R. Bansal, Advocate for respondent No.3.

AMIT RAWAL, J. (Oral)

This Court vide order dated 02.11.2010 had taken the suo motu action by treating the revision against the order of Motor Accident Claims Tribunal (MACT) dated 16.10.2010 passed in MACT No.103 of 2008, whereby while dismissing the claim petition ordered for registration of the criminal case against the power of attorney holder and others also. The order dated 02.11.2010, reads thus:-

“The learned Motor Accident Claims Tribunal (for short 'the Tribunal') has arrived at the conclusion that the Power of Attorney, Exhibit P.4, is fabricated, forged and has been used for the purposes of cheating and wrongful gain by hatching conspiracy. The said finding recorded by the learned Tribunal in civil proceedings without hearing the affected parties, violates the principles of natural justice. The name of the Presiding Officer appointed in the

year 2008 recited in the Power of Attorney allegedly executed on 24.8.2006 may render the attorney as invalid, but no wrongful gain was obtained by the claimant. The claim petition was filed for damage of the car in an accident by the claimant personally and such Power of Attorney is in favour of his brother-in-law. Even if the Power of Attorney was not proper for any reason whatsoever, it will only render the statement of the attorney as that of an incompetent witness, but the direction to register a criminal case against the executant, the attorney, marginal witnesses, Notary Public and Stamp Vendor, after returning a finding that such Power of Attorney is forged and fabricated, cannot be said to be sustainable in law.

Admitted.

All consequential proceedings consequent to the order dated 16.10.2010 passed by the learned Tribunal, shall remain stayed.”

I am in agreement with the aforementioned observations given by this Court. At the best, the MACT ought not to have ordered for registration of the FIR but decided the case on merits, particularly when other parties have not been confronted with the show cause notice, in case Court had formed a prima facie view. In my view such an Act on behalf of MACT was against the principles of natural justice too. The claim petition had arisen out on account of the damages in terms of money i.e. to the loss of Santro Car. It was not the case where some attempt was made to cause any wrongful loss to the State Exchequer or Insurance Company. MACT could have decided the matter on merits but not in the manner and mode as indicated above.

Accordingly, following findings given by MACT with regard to the registration of FIR are hereby expunged:-

“ISSUES NO.3 & 4

25. *Onus to prove both these issues are on the respondents. Neither any evidence was led by respondent No.3 nor these issues were pressed at the time of arguments. Hence these issues are decided against the respondents and in favour of the claimants.*

RELIEF

26. *As a consequence of my findings returned above, the petition fails and same is hereby dismissed. As the document Ex.P4 was prepared, fabricated and forged outside the court and then produced in the court as a genuine document, knowingly that the power of attorney is forged and fabricated. The power of attorney was used for the purpose of cheating and for the purpose of wrongful gain by hatching conspiracy with each other. As such Criminal Ahlmad is directed to send the attested copy of judgment alongwith application to SHO, P.S. Div. No.4, Jalandhar for registration of case under Sections 420/465/467/468/471/120-B IPC against claimant Sunil Kumar, power of attorney holder, Arvind Kumar, Advocate, marginal witnesses of power of attorney Ex.P4 Ranjit Singh Advocate and Ravinder Pal Singh Advocate, Notary Public Prem Kumar bearing license No.1263 and Stamp Vendor who has issued the stamp paper in a clandestine manner. Report of SHO concerned be called within seven days, failing which, appropriate action under law would be taken against him. The claim petition being bogus one, is dismissed with exemplary costs of Rs.20,000/- to be deposited by claimant with District Free Legal Aid Authority within 30 days, failing which, Collector,*

Jalandhar shall recover the same as arrears of land revenue within 90 days and shall report to the undersigned. A letter be written to Deputy Commissioner, Jalandhar, for verifying the identity of Stamp Vendor, to whom stamp paper bearing No.F 437666 was issued and when and report to this aspect be also submitted within 7 days. A letter be written to Chairman Bar Council, Punjab & Haryana High Court for taking appropriate and necessary actions against the above Advocates and Notary Public. A letter be also written to Commissioner of Police to ensure the compliance of orders of this Court.

Memo of costs be prepared and file be consigned to record room.”

Revision petition stands disposed of in aforementioned terms.

19.09.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No