

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

CRM-M-14480 of 2015

Date of Decision: August 29, 2016

Kuljinder Singh Ahluwalia and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. K.S. Khehar, Advocate
for the petitioners.

Mr. Gurveer Sidhu, AAG, Punjab.

Mr. R.S. Rai, Senior Advocate
with Mr. Gautam Dutt, Advocate
for respondent No.3.

Mr. Anand Chhibbar, Senior Advocate
with Ms. Harpriya Khaneka, Advocate
for respondent No.4.

FATEH DEEP SINGH, J.

“United we stand divided we fall” appears to be the most apt adage for this once a patriarchal family which by their mere cohesion, unity and dint of hard work skyrocketed to the zenith of progress and that on falling apart the patriarchy having dwindled and to gather whatever scattered remnants have been left behind are pitched against each other in this seemingly unending attrition. To put it in a simpler form one

Bhopinder Singh was married to Smt. Gurdev Kaur (now deceased) out of which marriage the couple had three sons namely Rajinder Singh (since deceased) whose wife is Ms.Sandeep Kaur Ahluwalia-respondent No.3 another son Kuljinder Singh Ahluwalia-petitioner No.1 and Ravinder Singh Ahluwalia respondent No.4 as well as daughter Ms.Harjinder Kaur. The family successfully ran its business empires in the States of Punjab as well as Maharashtra and it is consequent upon death of Rajinder Singh at Mumbai on 3.1.2004 the family fell into a disarray leading to innumerable inter-se litigations, allegations and counter-allegations. It is one of the armaments of this strategy an FIR No.208 dated 16.9.2009 under Sections 420,467,468,471,120-B IPC was registered with Police Station Rajpura, District Patiala (Annexure P/1) by respondent No.3 Mrs. Sandeep Kaur Ahluwalia through her attorney and daughter Ms.Mandeep Kaur Pahwa on the grounds that petitioner No.1 Kuljinder Singh Ahluwalia and respondent No.4-Ravinder Singh Ahluwalia accused in connivance with Jasbir Singh-petitioner No.2 and Sunil Desai-petitioner No.3. have usurped her equity shares which she has inherited as a legacy from her deceased husband Rajinder Singh as she had been entrusted to look after the affairs of her husband in Northen India comprising of M/s Mukat Pipe Limited and Mukat Education Trust, Rajpura and apprehending that her signatures which have been obtained by these accused is being used to commit fraud with her. It is through an amicable settlement petitioner No.1 Kuljinder Singh Ahluwalia, respondent No.3 Mrs. Sandeep Kaur Ahluwalia as well as respondent No. 4-Ravinder Singh Ahluwalia effected a compromise deed on 5.1.2001 which was duly reduced into writing by way of Annexure P/2. In

the meanwhile, a special leave petition (Civil) No.27174 of 2009 was preferred before the Hon'ble Supreme Court of India where this compromise deed was put forth in civil appeal No.4452 of 2011 which arose out of SLP (Civil) No.27174 of 2009 and on which Hon'ble Apex Court passed order dated 12.5.2011 Annexure P/3. It is as a consequence of this compromise, accused petitioners Kuljinder Singh Ahluwalia, Jasbir Singh and Sunil Desai have preferred this petition under Section 482 Cr.P.C invoking the inherent jurisdiction of this Court seeking quashment of FIR Annexure P/1 and all subsequent proceedings arising therefrom on the basis of earlier compromise and there being no eventuality of commission of any criminal offence.

The stand of the State in its reply is of admission as far as existence of the business concern comprising of Mukat Pipes, M/s Muktanandan Corporation and such groups of companies accepting the allegations of the complainant that she was put under mental pressure to put her signatures on certain documents for the enablement of transfer of equity shares and the investigations found the accused to be guilty and, thus, they have been put to trial.

Upon hearing learned counsel for the parties, it is well admitted by the counsel for the two sides that special leave petition (Civil) 27174 of 2009 was filed by respondent No.3 Sandeep Kaur Ahluwalia against Ravinder Singh Ahluwalia respondent No.4, Kuljinder Singh Ahluwalia, petitioner No.1, Ms.Harjinder Kaur, Ms.Mandeep Kaur Pahwa, Manpreet Ahluwalia and Simrita Ahluwalia. It is also not put to question that Hon'ble Supreme Court of India consequent upon litigation before it

passed order dated 12.5.2011 Annexure P/3 i.e. after the registration of the FIR in question and which is reproduced as follows to lay emphasis:-

“Having perused the compromise deed we find that the dispute between the appellant on the one hand and respondents 1 and 2 on the other hand have been settled in terms of the compromise deed. We therefore set aside the order of learned single Judge and Division Bench of the High Court and direct that the appeal be disposed of in terms of the compromise deed in so far as they relate to the appellant. As between respondents no.1 and 2 we find that there is no settlement under the compromise deed and it is for the said parties to work out their rights and remedies in accordance with law if they want to have a settlement. The appeal stands disposed of accordingly.”

From the bare perusal of the same, it is much in abundance that compromise deed dated 5.1.2011 Annexure P/2 (which was Annexure A/1 before the Hon'ble Apex Court) was considered by their Lordships and the SLP filed by respondent No.3-Sandeep Kaur Ahluwalia was allowed in terms of this compromise and the appeal stood disposed off in terms of that compromise deed and by virtue of which it is clear that the compromise is in respect of Sandeep Kaur Ahluwalia, Ravinder Singh Ahluwalia and Kuljinder Singh Ahluwalia in the said SLP and qua inter se between Ravinder Singh Ahluwalia and Kuljinder Singh Ahluwalia no such settlement was given effect to and it was left open to them to work out their remedies if they want to have settlement. Learned counsel for the petitioners submitted that compromise has not been given effect to in toto is a matter which could not be agitated at this juncture when the parties have endorsed it before the Hon'ble Supreme Court of India and consequent upon which

orders were passed vouching for the compromise and upholding it between petitioner in the SLP Sandeep Kaur Ahluwalia and present accused Kuljinder Singh Ahluwalia and now a party cannot be allowed to wriggle out of this compromise. A relook at this compromise shows that the same has come into effect immediately on the signing of the deed which is dated 24.01.2011. The very modalities of this settlement wherein Kuljinder Singh Ahluwalia and Ravinder Singh Ahluwalia signed as party one and two and Sandeep Kaur Ahluwalia as party No.3 have bound themselves along with their heirs respectively, whereby, they have undertaken as follows:-

1. That it has been agreed that on account of the present compromise the companies/properties i.e. Mukat Educational Trust, Rajpura, Mukat Pipes Ltd having two units at Rajpura and Baramati Including 3396700 equity shares of Mukat Pipes Limited shall hereinafter vest exclusively with party I and II.
2. That by virtue of the present settlement the respective parties shall execute all relevant documents and deeds as also complete other formalities, that may be required to be undertaken to achieve the objective of the transfer of the above properties/companies/firms/Trusts/Societies etc. to the respective parties i.e. Either party I and Party II or Party III. Accordingly, the respective parties will resign from the companies/firms/trusts societies etc. which have changed hands in terms of the present compromise.
3. That it has also been agreed that M/s Surindra Engineering Co, Ltd shall transfer 1/3rd of the sale proceeds of Mukat House in favour of M/s Mukat Pipes Limited . That party III will provide and extend the necessary support to Surindra Engineering Co. Ltd to recover the balance sale proceeds of Mukat House with interest.
4. That even it has further been agreed that both the

individuals and the companies will relinquish their respective shares, rights inter se balance etc. in different companies. There shall also be to inter se claim of liabilities amongst the companies/instruments/individuals that stand partitioned by virtue of this deed. For example wherever there is cross holding of any equity, if M/s Mukat Pipes Limited is having any equity share in the companies, like M/s Surindra Engineering Co. Ltd. Etc. now being vested in party I and II then M/s Mukat Pipes Limited shall forego all the shares rights etc. in favour of party I and II of their nominee and similarly vice versa.

5. That in view of the compromise all the past, present and future liabilities of the companies/firms/trusts/societies etc. which have come to the share of the respective parties shall be borne by them. They will be liable for all dues whether Government or Statutory including third parties.
6. It is also agreed that none of the parties to the present compromise shall acquire directly or indirectly in their own name or in the names of their relatives or associates or through any corporate owned and controlled directly or indirectly the shares of the respective companies without the proper written consent of the other side and if such shares of one party are presently owned by other party they shall be transferred to the party whom they have now vested by virtue of present settlement.
7. That party III shall relinquish all its rights in the ancestral property i.e. agricultural land, house etc. situated at Khanna (Punjab). Party I and II shall pay 25% of current market value of this property to Smt. Harjinder Kaur wife of Sh. Harinder Singh to end the family dispute.
8. That party I and II will relinquish all their rights in the property in the name of late Smt Gurdev Kaur situated at Flat No.39, Parag Apartments, Versova,

- Andheri (west) Mumbai- 400 061 in favour of party III. Party III shall pay 25% of current market value of this property to Smt. Harjinder Kaur.
9. That party, I II and III agree to transfer 10 % out of the total holding of Late Mr. Bhopinder Singh which was inherited and transmitted in favour of Smt Gurdev Kaur after his death to Smt Harjinder Kaur w/o Sh Harinder Singh Ahluwalia. As far as Mukat Pipes Ltd is concerned, Party No. I and II shall relinquish all their rights to all the equity shares of Mukat Pipes Ltd. Party No.III shall pay lumpsum Rs.17 lacs to Smt Harjinder Kaur in consideration of her rights, if any, on any equity shares of Smt. Gurdev Kaur or otherwise of Mukat Pipes Ltd to end the family disputes.
10. That gold ornaments lying in the locker of Smt Gurdev Kaur shall be divided and shared equally amongst all the legal heirs.
11. That party no.I, II and III shall withdraw/end their litigation against each other in terms of agreement.

From this, it is abundantly clear that as a consequence of this settlement they have put to an end all the skirmishes qua the properties movable as well as immovable and had effected a favourable settlement qua each of them of these properties and have undertaken that they shall withdraw/end their litigation against each other in terms of this compromise.

Since this settlement *inter se* within the family was a voluntary act of each of them and all the three parties, who are the main agitators have signed this settlement and vouched for this and which fact was found reiterated by them before the Hon'ble Apex Court and which has led to disposal of SLP and further the parties have undertaken that they would withdraw all litigation between them arising out of this dispute thus

leaves no scope to hold that settlement which was arrived at with the intervention of the respectables and relatives and was endorsed before the highest Court of law now none of them can back out of the same and to this Court ex-facie this settlement between them appears to be genuine and bonafide and, therefore, having been accepted before the Court becomes binding in nature. Since the parties as a consequence of this settlement have received relative benefits it cannot be accepted as has sought to be contended on behalf of the respondents by their counsel that the same is not acceptable and is inequitable. Rather the conduct of the respondent-complainant appears to be arising more out of vindictive vengeance and, therefore, she cannot be allowed to back out of it and such criminal case by way of an FIR needs to be quashed for which this Court seek reliance from **2005(1) RCR Criminal 697 Mohd. Shamin vs. Smt Nahid Begum.**

Looking from another angle, simplicitor cursory look at the contents of the FIR Annexure P/1 nowhere reflects any commission of offence and only allegations that cropped up from the contents of the FIR are that accused in the said case consisting of Kuljinder Singh Ahluwalia along with Jasbir Singh, a relative, and Sunil Desai a Chartered Accountant the petitioners before this Court have visited the complainant and obtained her signatures and there is not even an iota of allegations that there was deception or coercion and she has voluntarily of her own willingly signed the documents rather appears to be an act arising out of pure voluntariness of the complainant and which she has subsequently given a twist to get out of her obligations arising out of this documentation. It is not a single signature but as per her own admission a number of papers which she

claims were signed in good faith and trust and claims that even on another occasion she has done so by signing such documents and there is only an expression of apprehension by her that the same may be misused rather reflects that as a consequence of some sort of family arrangement which was earlier made complainant is trying to get out of it by levelling such unsubstantiated allegations. The very allegations of misrepresentation, fraud cannot be perpetuated merely by stating so but has to be prima facie shown the manner in which they were accomplished. What one could gather from these allegations that she wants to take over the control of part of the business estate from the accused and with this pre-conceived notion has levelled these allegations with an ulterior motive and malafide intention. It is duly accepted during the course of arguments by her counsel as well as State that there is not even an iota of evidence to reflect that there was forged partnership. It is never denied by the complainant in her allegations in the FIR that she has never signed these documents and how come a wrongful gain has been made by them and wrongful loss to her. It is readily accepted by the learned counsel that none of these documents have ever been sent for examination by an Expert to establish prima facie either forgery or fabrication. The term forgery as defined in English means “*an act of creating fraudulently a copy or an imitation*” and the word misrepresentation means “*to give a false or misleading account*”. There is nothing prima facie to show forgery when it is the admitted stand of the complainant herself that she had signed the documents at the asking of the accused and how or in what manner accused had misrepresented is nowhere detailed by her in her allegations. Even the allegations of alleged cheating

cannot be loosely construed. Section 415 IPC defines cheating as “*an act of deceiving any person fraudulently or dishonestly induces the person so deceived to deliver any property to any person or to consent that any person shall retain any property, or intentionally inducing the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived*” and there is not even an allegation of dishonestly concealment of facts. The petitioner Jasbir Singh happens to be only a relative and as per these allegations petitioner No.1 Kuljinder Singh Ahluwalia used to reside with him in Patiala whenever he visited Punjab and the only allegation against the petitioner No.3 is that he happens to be Chartered Accountant of petitioner No.1 and there is no definite role assigned to them in these allegations as to in what manner they have acted and deceived the complainant. Thus, to the mind of this Court all these allegations on the very face of it appears to be devoid of truth and do not even prima facie make out any allegations of having committing any cognizable offence. Since all these materials do not disclose commission of any offence therefore, the prosecution cannot be permitted to proceed against these accused by any stretch of imagination. Seeking support from law laid down in **State of Haryana and others vs. Ch. Bhajan Lal and others AIR 1992 S.C. 604** where their Lordships have laid down the guidelines though only illustrative but not exhaustive where such powers under Section 482 Cr.P.C can be exercised which are as follows:-

1. Where the allegations made in the First Information Report or the complaint even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and made out a case against the accused.
4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code of the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

The bare perusal of the records of this case do not bear out that there is any allegation worth to allow the continuation of the criminal prosecution against the petitioner No.3 Sunil Desai Chartered Accountant as well as petitioner No.1 Kuljinder Singh Ahluwalia and respondent No.4 Ravinder Singh Ahluwalia with whom the complainant has already effected compromise and which has been acknowledged before a Court of law.

Thus, in the totality of what has been detailed and discussed above, to the mind of this Court, the continuation of the present proceedings would be nothing but an abuse of process of law, mere absurd in nature and being an exceptional circumstances to exercise powers under Section 482 Cr.P.C. the FIR Annexure P/1 and all the proceedings arising out of this FIR are hereby quashed.

The petition is disposed off as allowed.

(FATEH DEEP SINGH)
JUDGE

August 29, 2016
aarti/rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No