

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

120

CRM-M-31651-2016 (O&M).
Decided on: November 8, 2016.

Omesh Alias Umesh Kumar

.. Petitioner

VERSUS

State of Punjab

.. Respondent

* * *

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

* * *

PRESENT Mr.N.S.Dadwal, Advocate,
for the petitioner.

M.M.S. BEDI, J. (ORAL)

Petitioner seeks quashing of FIR No.220 dated 19.8.2012, under Sections 419, 420, 465, 467, 468, 471 and 120-B IPC, registered at Police Station, Nakodar, District Jalandhar City as well as the charges framed vide Annexure P3 dated 6.5.2014, inter alia, on the ground that the dispute regarding execution of the Will of the father of the complainant is the subject matter of the civil suit whereas the petitioner is alleged to be an attesting witness to the alleged fraud.

I have heard the learned counsel for the petitioner. The plea of the petitioner appears to be in the nature of civil litigation which is stated to be pending.

It has been contended that civil Court has also passed a judgment regarding the Will.

After hearing counsel for the petitioner, I am of the opinion that culpability of the petitioner in the capacity as an attesting

witness of the Will which is alleged to be forged cannot be determined, at

this stage, when the charges have been framed and the trial is now fixed for recording of the evidence.

The pleas taken by the petitioner can be raised by him during the course of trial to seek benefit.

Counsel for the petitioner has placed reliance on **Hira Lal Jain Vs. Delhi Administration, AIR 1972 SC 2598**. The said judgment pertains to an Advocate who had identified some persons as claimants and considering the status of an Advocate, it was held that it could not be said that the petitioner in said case had committed offence of cheating or had conspired with other accused. The said judgment appears to be not applicable to the case of the petitioner who is alleged to have attested the Will as one of the two attesting witnesses required under law to attest the Will.

The petition is dismissed without prejudice to the right of the petitioner to raise all the pleas of defence at appropriate stage during the course of trial.

(M.M.S. BEDI)
JUDGE

November 8, 2016.

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Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No