In the High Court of Punjab and Haryana at Chandigarh

......

(1) Criminal Misc. No.M-3993 of 2010 (O&M)

.....

Date of decision:27.9.2016

Surjit Singh and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

(2) Criminal Misc. No.M-25907 of 2009 (O&M)

.....

Surjit Singh

.....Petitioner

v.

State of Punjab and others

.....Respondents

....

(3) Criminal Misc. No.M-25095 of 2010 (O&M)

.....

Vikas Bhalla and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

(4) Criminal Revision No.909 of 2012 (O&M)

.....

Vikas Bhalla and others

.....Petitioners

v.

State of Punjab and others

.....Respondents

....

(5) Criminal Misc. No.M-12534 of 2012 (O&M)

.....

Pushpinder Kaur and others
.....Petitioners

v.

State of Punjab and another
.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Anmol Rattan Sidhu, Senior Advocate with Mr. Mahir Sood, Advocate for the petitioners in Cr. Misc. No.M-3993 of 2010 and Cr. Misc. No.M-12534 of 2012.

Mr. Nandan Jindal, Advocate for the petitioner in Cr. Misc. No.M-25907 of 2009.

Mr. L.M. Gulati, Advocate for the petitioners in Cr. Misc. No.M-25095 of 2010.

Mr. Akshay Jain, Advocate for the petitioners in Cr. Revision. No.909 of 2012.

Ms. Shivali, Assistant Advocate General, Punjab for the respondent-State.

Mr. Vaibhav Narang, Advocate for respondent No.2 in Cr. Misc. No.M-3993 of 2010 and Cr. Misc. No.M-12534 of 2010.

.....

Inderjit Singh, J.

This order will dispose of the above mentioned four criminal miscellaneous petitions filed under Section 482 Cr.P.C. and one criminal revision petition under Section 401 Cr.P.C., i.e. for quashing of FIR No.27 dated 30.1.2008 registered for the offences under Sections 420, 421, 422, 423, 463, 464, 465, 466, 467, 468, 471 and 120-B IPC at Police Station 'B' Division, Amritsar and for staying the framing of charges; for quashing the order dated 18.11.2011 passed by Additional Sessions Judge, Amritsar and order dated 6.12.2010 passed by Judicial Magistrate Ist Class, Amritsar etc.

The facts have been taken from Criminal Misc. No.M-3993 of 2010.

From the record, I find that in Cr. Misc. No.M-3993 of 2010 that petition qua petitioner No.1-Surjit Singh has been dismissed as withdrawn vide order dated 26.2.2010 by this Court.

Notice of motion has been issued in these petitions.

Ms. Shivali, learned Assistant Advocate General, Punjab, has put in appearance on behalf of the respondent-State and Mr. Vaibhav Narang, learned Advocate has appeared on behalf of complainant-Jaswinder Singh and contested these petitions.

I have heard learned counsel for the parties as well as learned Assistant Advocate General, Punjab for the respondent-State and have gone through the record.

From the record, I find that FIR No.27 dated 30.1.2008 has been got registered after the complaint was made by Jaswinder Singh for registering the case, in which he had mainly stated that his daughter Sumeet Kaur was thrown out of her matrimonial home after giving beatings and for usurping her due property and regarding obtaining fake claims from LIC against the accused, namely, Pushpinder Kaur, Surjit Singh, Arminder Singh, Swinder Singh and the officers of LIC, namely, Vikas Bhalla, Manager, Niday Gupta and other officials. In the FIR, another application by Sumeet Kaur has also been mentioned in which she stated that she was married to Surpreet Singh son of Surjit Singh and Pushpinder Kaur, on

30.5.2002 and a minor child, namely, Assleen Kaur was born on 20.8.2003. Her husband Surpreet Singh died on 2.11.2006 and on 13.12.2002, her mother-in-law Pushpinder Kaur and father-in-law Surjit Singh pushed her out of their house in three wearing apparels with her minor daughter Assleen Kaur. Her husband Surpreet Singh had taken some LIC policies during his life time. Above accused Surjit Singh had already filed a civil suit against her in connection with ICICI Prudential Life Insurance, in which a plea was taken by him that his son Surpreet Singh had executed a Will in his favour. Another case was filed against her by Surjit Singh under Sections 7, 8 and 25 of the Guardians and Wards Act in respect of Assleen Kaur. It is also stated that he had also sent an application to the Manager, Life Insurance Corporation of India (hereinafter referred to as `LIC') about the LIC Policy of her husband Surpreet Singh through registered post. One application was also sent to the LIC on 3.9.2007. Pushpinder Kaur and Surjit Singh in connivance with their son-in-law Arminder Singh, Swinder Singh-witness and officers and Clerks of LIC, Amritsar, filed an application on 15.11.2007 for taking claim of policies Nos.22748753, 130562743, 470302386 and 470268092 of Surpreet Singh. They filled in the forms in this respect and indemnity bond in this connection. In that Pushpinder Kaur declared that her son Surpreet Singh (since deceased) was not married and that he had not left any Will in favour of any person. Though, Pushpinder Kaur and Surjit Singh knew it fully well that they had already filed petition for taking the custody of Assleen Kaur in the Courts and for having the benefits of policies from the LIC. The Branch Manager of LIC, Arminder

Singh and witness-Swinder Singh in conspiracy with above Pushpinder Kaur and Surjit Singh got filed a false declaration saying therein that their son Surpreet Singh was not married and had not left any Will though they had already filed a forged Will purported to be of complainant's husband Surpreet Singh for showing them legal guardians of minor child. This was done by them to grab the property of complainant's husband Surpreet Singh and they got disbursed an amount of ₹3 Lacs on 26.11.2007 in their own names and misappropriated the entire amount. She had gone to LIC office time and again, but on 14.1.2008, she received a letter that the claim had been taken by Pushpinder Kaur. It has been prayed that the case may be registered against the accused-petitioners and on the basis of these facts, this FIR in question had been registered.

Replies have been filed by private respondent No.2-complainant as well as the State etc.

From the record, I find that the main allegations against the accused are that Pushpinder Kaur claimed the insurance amount of her son Surpreet Singh by making false averment in the form stating him to be unmarried and the officers and officials of the LIC gave the whole claim to Pushpinder Kaur-mother of Surpreet Singh wrongly.

Learned senior counsel for the petitioners argued that otherwise also as being natural legal heir, Pushpinder Kaur was entitled to 1/3rd share out of that amount. Learned senior counsel argued that these LIC policies were taken by Surjit Singh-father paying the money when Surpreet Singh was a minor. He further argued that even if it is taken as it is then, at the most, it amounts to furnishing of false information to LIC and Pushpinder Kaur alone is liable for furnishing false information. He argued that Pushpinder Kaur is an illiterate lady and forms had been filled by the officials of the LIC and she is innocent. Learned senior counsel for the petitioners further argued that even if it is taken as it is, then the complainant has not been cheated. It is the LIC, which has been cheated. The complainant-Sumeet Kaur (wife of Surpreet Singh) has the right to recover her amount to which she was entitled from LIC and she had recovered the same from the LIC. Learned senior counsel for the petitioners further argued that as there is no evidence collected by the Investigating Officer nor it is the case of the prosecution that LIC had been cheated, therefore, he argued that filing of this FIR under Sections 420 IPC etc. is nothing, but an abuse of the process of law. He also argued that there is nothing on the record to show that any document has been fabricated or forged. There is only allegation that in one column of the form wrong information had been furnished by saying that Surpreet Singh was unmarried.

Learned senior counsel for the officers and officials of the LIC-accused argued that as per Section 47 of the Life Insurance Corporation Act, 1956, no suit, prosecution or other legal proceeding shall lie against any member or employee of the Corporation for anything which is in good faith done or intended to be done under this Act. Learned senior counsel further argued that as per Section 107 of the Insurance Act, 1938, previous sanction of Advocate General for institution of proceedings is required. This section provides as under:-

> “**Previous sanction of Advocate-General for institution of proceedings**
>
> 107. (1) Except where proceedings are instituted by the Authority or an Administrator appointed under Section 52A, no proceedings under this Act against an insurer or any director, managing agent, manager, secretary or other Officer of an insurer or any liquidator or any employee or agent of an insurer or any person who is liable under sub-section (2) of Sec. 41 or any other person shall be instituted by any person unless he has previous thereto obtained the sanction of the Advocate-General of the State where the principal place of business in India of such insurer is situate to the institution of such proceedings: Provided that where the principal place of business of such insurer is situated in a Union territory references in this section to the Advocate General of the Province shall be construed as references to the Attorney General for India. (2) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.”

On the other hand, learned State counsel argued that the FIR had been registered correctly by the Police and the challan has been presented as per law. The accused/petitioners in connivance with each other have tried to take away the amount to which the wife and minor child of Surpreet Singh were also entitled and they were cheated by preparing false documents for getting the claim.

From the record, I find merit in the arguments of the learned senior counsel for the petitioners. First of all, from the perusal of the record, I find that neither Jaswinder Singh nor Sumeet Kaur have been cheated by the petitioners as they have the claim against the LIC. If it is taken that the claim has been taken wrongly by the petitioners by furnishing false information to the LIC, it is the LIC, who had been cheated. It is no where the case of the prosecution that LIC had been cheated by the petitioners. Rather, a case has also been registered against the officers and officials of the LIC for cheating etc. There is nothing on the record to show that by giving the wrong claim to the petitioner-Pushpinder Kaur, in any way, the Manager and the officials of the LIC had wrongly gained anything and has put any wrongful loss to Sumeet Kaur. Pushpinder Kaur applied for amount by giving wrong information and the LIC paid the amount to her. It has been argued at the time of arguments that the LIC had also filed the suit against Pushpinder Kaur etc. and has recovered the amount with interest. Therefore, from the case of the prosecution, it is clear that the complainant has not been cheated. Rather, the LIC, if at all has been cheated by giving the false information. It is further proved from the record that it is not the case of the prosecution that anybody had appeared or signed for another person. The signatures on the documents of Pushpinder Kaur and other petitioners are genuine one. Therefore, no document had been forged or fabricated. At the most, it can be held that false information had been given to the LIC, which is punishable under the Life Insurance Corporation Act etc.

At the time of arguments, learned senior counsel for the petitioners also brought to my notice that the FDRs were taken in the name of Surpreet Singh by his father Surjit Singh-petitioner. When these insurance policies and FDRs were taken, at that time, Surpreet Singh was minor. The learned senior counsel for the petitioners also brought to my notice that after the encashment of the policies, amount of about ₹2,82,000/- has been deposited in the name of minor Assleen Kaur on 23.1.2008. Learned senior counsel for the petitioners further argued that Assleen Kaur-minor daughter of Sumeet Kaur and Surpreet Singh is the grand-daughter of Surjit Singh and Pushpinder Kaur and they had already deposited the amount of about ₹16,50,000/- in the name of Assleen Kaur till now.

As discussed above, there is nothing on record to show that any document had been fabricated or forged nor there is anything on record that Sumeet Kaur has been cheated. It is rather, the LIC etc., which had been cheated, but it is no where the case nor any evidence of the prosecution that the LIC had been cheated by Pushpinder Kaur etc. Further more, the son-in-law, Arminder Singh is stated to have only given guarantee for indemnifying in case of any loss to the LIC. Therefore, the petitioner who had given guarantee for indemnifying the LIC for loss, it cannot be held that he had cheated the LIC or Jaswinder Singh or Sumeet Kaur.

Therefore, from the above discussion, I find that the registration of the FIR is nothing, but an abuse of the process of law and amounts to miscarriage of justice.

Therefore, finding merit in these petitions and revision petition, the same are allowed. FIR No.27 of 2008 dated 30.1.2008 registered for the offences under Sections 420, 421, 422, 423, 463, 464, 465, 466, 467, 468, 471 and 120-B IPC at Police Station 'B' Division, Amritsar and all subsequent and consequential proceedings emanating therefrom including the framing of charges and the impugned order dated 18.11.2011 passed by Additional Sessions Judge, Amritsar and order dated 6.12.2010 passed by Judicial Magistrate Ist Class, Amritsar are hereby quashed.

September 27, 2016. **(Inderjit Singh)**
Judge

hsp

NOTE: Whether speaking/reasoned: Yes
Whether reportable: No