

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-36029 of 2014 (O&M)
Date of decision : February 05, 2016

Gurpreet Kaur

...Petitioner...

versus

State of Punjab and another

...Respondents...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? (✓)

Present : Mr. Munish Gupta, Advocate,
for the petitioner.

Mr. Arjinder Singh Sidhu, AAG, Punjab,
for respondent No.1.

Mr. P.S. Punia, Advocate,
for respondent No.2.

JASPAL SINGH, J.

By virtue of this petition preferred under Section 482 of the Code of Criminal Procedure, Gurpreet Kaur wife of late S. Gurmukh Singh has sought quashing of FIR No. 18, dated 25.02.2014, under Sections 419, 420, 467, 468, 471 and 120-B IPC, Police Station Kotwali Nabha, District Patiala as well as subsequent proceedings emanating therefrom.

2. Learned counsel for the petitioner has *inter alia* contended

that after the sudden demise of her husband-Gurmukh Singh, mutation of inheritance was entered and sanctioned on the basis of Will dated 30.01.2011 executed by Gurmukh Singh-deceased in favour of his son Harmanjit Singh and widow Gurpreet Kaur-petitioner vide which he bequeathed his 1/3rd share of the property in favour of petitioner and 2/3rd share in favour of his son, Harmanjit Singh. Moreover, at the time of sanctioning mutation, Will was set-up by Baljit Kaur-complainant (mother of Gurmukh Singh-deceased). Even she also suffered a statement before Assistant Collector Ist Grade, Nabha to the effect that his son Gurmukh Singh executed a Will dated 30.01.2011 in favour of his wife and son, which was also attested by Gurmit Singh, Lamberdar. Original Will is in the custody and possession of Baljit Kaur, mother of Gurmukh Singh (deceased). Subsequently, Baljit Kaur also preferred a civil suit seeking declaration to the effect that she is joint owner and in joint possession to the extent of 1/3rd share in the land left by Gurmukh Singh. Even, she also sold her 1/3rd share of the property inherited from Gurmukh Singh in favour of one Balwinder Kaur vide registered sale deed No. 1053, dated 11.07.2013, which is also under challenge through a civil suit. But subsequently, relation between Baljit Kaur and petitioner became strained due to which, Baljit Kaur succeeded in getting the instant case registered, which is nothing but an abuse of process of law. By lodging the instant FIR, Baljit Kaur has made an endeavour to give criminal colour to civil litigation by twisting and

levelling false allegations. Since, the Will dated 30.01.2011 executed by Gurmukh Singh is a legal, valid and genuine one, which has already been acted upon by the revenue authorities. Even, Baljit Kaur had already sold the land inherited by her to the extent of 6 bigha 5 biswa to Balwinder Kaur. Thus, the registration of instant FIR is nothing but an abuse of process of law, which is otherwise actuated with malice just to settle personal score and cause harassment to the petitioner as well as her son. Thus, the FIR as well as subsequent proceedings emanating therefrom are liable to be quashed.

3. On the other hand, learned State counsel as well as learned counsel for respondent No.2-complainant has strongly refuted the various submissions put forth by learned counsel for the petitioner. They have submitted that during the investigation of this case, it has clearly emerged that all the accused in connivance with each other brought into existence a forged and fabricated Will after the demise of Gurmukh Singh that too, by disinheriting his mother-Baljit Kaur by way of propounding the forged Will alleged to have been executed by Gurmukh Singh. The intention of the petitioner is to deprive the complainant-Baljit Kaur from her legal rights. From the various allegations unfolded in the FIR by Baljit Kaur, prima facie it is established that the Will dated 31.01.2011 propounded by the petitioner is a forged and fabricated. As such, it cannot be said that no prima facie case is made out or that the FIR is an abuse of process of law.

Accordingly, learned State counsel as well as learned counsel for the complainant-respondent No.2 have prayed for dismissal of petition.

4. After bestowing due consideration to the aforesaid submissions and scrutinizing petition as well as written reply preferred by respondents, this Court does not find any merit in the instant petition.

5. Undoubtedly, the petitioner is the wife of Gurmukh Singh and out of their wedlock a son namely Harmanjit Singh was born. Gurmukh Singh breathed his last in November 2011 in an accident, who was the owner and in possession of the land measuring 24 killa of land at village Biradwal. During the investigation of the case, it has emerged that the petitioner propounded a Will dated 31.01.2011, alleged to have been executed by Gurmukh Singh during his life time but during the investigation of the case, it was found fake and fabricated one as it was brought into existence after 3 days of the death of Gurmukh Singh by the petitioner in connivance with the attesting witnesses. Mere pendency of civil litigation is not suffice for initiating the criminal proceedings. Moreso, after the completion of investigation, report under Section 173 Cr.P.C. has already been presented in the Court of Id. Jurisdiction Magistrate, Nabha in which the charge has already been framed, which is now pending for consideration. At this stage, the correctness of the allegations in the FIR cannot be seen by this Court and that could only be seen at the trial. At this stage, it is

only to be seen whether on the perusal of FIR a prima facie offence is made out or not. Moreover, various submissions made by learned counsel for the petitioner, during the course of arguments are nothing but a defence to be put up by the petitioner, which can only be considered and dealt with by the trial court during the trial of the case.

6. To fortify this observation, we can have the reference of the pronouncements of Hon'ble Apex Court captioned as “***Indian Oil Corporation vs. NEPC India Ltd.***”, 2006(3) RCR (Criminal) 740 and “***State of Orissa vs. Saroj Kumar Sahoo***”, 2006(1) RCR (Criminal) 324, which have been subsequently relied upon by the Hon'ble Supreme Court in case “***Swaran Singh and others vs. State through Standing Counsel and another***”, 2008 (4) RCR Criminal 74.

7. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such the same is dismissed.

8. Here, it would be significant to mention that during the pendency of instant petition another petition bearing CRM-M-7764-2015 was also filed, in which, quashing on the basis of compromise was sought, which was ordered to be heard together and listed along with instant petition but perusal of that case transpires that the same has already been withdrawn vide order dated 20.07.2015.

February 05, 2016

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**(JASPAL SINGH)
JUDGE**