

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1098 of 2014

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Date of decision:7.10.2016

Piara Singh

...Petitioner

v.

Baldev Singh and another

Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Ms. Narender Kaur, Advocate for the petitioner.

Mr. G.B.S. Dhillon, Advocate for respondent No.1.

Mr. Mohd. Yousaf, Advocate for respondent No.2.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned order dated 31.1.2014 passed by learned Judicial Magistrate Ist Class, Ludhiana, vide which the learned Magistrate has taken cognizance and for further giving direction to Judicial Magistrate Ist Class, Ludhiana to get registered FIR.

Notice of motion has been issued in this case.

Mr. G.B.S. Dhillon, learned Advocate has appeared for respondent No.1 and Mr. Mohd. Yousaf, learned Advocate has appeared for respondent No.2 and contested this criminal revision petition.

I have heard learned counsel for the parties and have gone

through the record.

From the record, I find that a complaint (Annexure-P.8) was filed by Piara Singh against Baldev Singh and Harminder Singh Sidhu, Sub-Registrar (West) under Section 156(3) Cr.P.C. for issuing directions to S.H.O. Haibowal Kalan, Ludhiana to register FIR under Sections 177, 420, 465, 467, 120-B IPC etc. alleging that Bachan Singh father of the complainant performed two marriages and from his first marriage with Tej Kaur, there are four children, namely, Hardev Singh, Baljinder Singh, Baldev Singh and Parminder Kaur and from the second marriage with Smt. Karnail Kaur two children, namely Jagdev Singh and Piara Singh were borne. Bachan Singh was owner of land about 16 Kanals and was also having FDRs of ₹75 Lacs in Indian Overseas Bank. Bachan Singh had not executed any Will or transfer deed in favour of any of his legal heirs and due to old age was suffering from many diseases. It is also stated in the complaint that on 30.1.2013 Baldev Singh took Bachan Singh along with him before Sub Registrar i.e. Harminder Singh Sidhu, Sub-Registrar (West), Ludhiana and accused No.1 in connivance with the Sub-Registrar got executed Will dated 30.1.2013, transfer deed dated 30.1.2013 and power of attorney dated 30.1.2013. It is also stated that Bachan Singh was not in a conscious state at the time of execution of all the above mentioned documents. At the time of execution of Will and the documents were not signed by Bachan Singh and it was only thumb marked on the documents whereas Bachan Singh used to sign in Urdu. On these facts a complaint was filed.

The learned Judicial Magistrate Ist Class, Ludhiana, vide order dated 31.1.2014 held that in view of the averments made in the application under Section 156(3) Cr.P.C. and after hearing learned counsel for the complainant and going through the nature of the complaint and the documents placed, he did not deem it fit to send the complaint to the Police Station for investigation and request made by the complainant under Section 156(3) Cr.P.C. was declined. It has further been stated in the order that complaint be registered. The Court has itself taken the cognizance and procedure would be adopted as in a complaint case and the case was fixed for 31.3.2014 for preliminary evidence.

After going through the averments made in the complaint and from the impugned order, I find that no illegality has been committed by the learned Judicial Magistrate Ist Class by taking cognizance herself. The averments made in the complaint show that it does not require any investigation by the Police in view of the facts of the case. To prove these facts, the complainant can produce evidence before the Court. The complainant is not denying the thumb impression of Bachan Singh on the Will and other documents. This fact will be seen by the Court whether any offence is made out or not. In view of the averments made in the complaint, I find that the order passed by the learned Judicial Magistrate Ist Class, Ludhiana, by declining the request to get registered the FIR under Section 156(3) Cr.P.C. is as per law and cannot be held as illegal. No illegality has been committed by the learned Magistrate and further it is the discretion of the Magistrate to send the complaint under Section 156(3) Cr.P.C. to the

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SHO of the concerned Police Station for registration of the case or the Court can take the cognizance.

Therefore, from the above, I find that the order passed by the learned Judicial Magistrate Ist Class is correct as per law and does not require any interference from this Court.

Finding no merit in the criminal revision petition, the same is dismissed.

October 7, 2016.

(Inderjit Singh)
Judge

hsp

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