

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-10451-2017 (O&M)

Date of decision: 20.07.2017

Roop Singh @ Jagroop Singh

..... Petitioner

Versus

Jarnail Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Siddharth Gupta, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

CRM-15888-2017

Copy of complaint dated 11.05.2012 (Annexure P-5) filed along with the application is taken on record, subject to all just exceptions.

CRM stands disposed of.

CRM-M-10451-2017

1. Through this petition under Section 482 Cr.P.C., the petitioner seeks quashing of order dated 09.05.2014 (Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Phul, District Bathinda, dismissing the complaint dated 11.05.2012 (Annexure P-5), filed by the petitioner and order dated 12.05.2016 (Annexure P-4) passed by the learned Additional Sessions Judge, Bathinda, whereby the revision filed by the petitioner against the order Annexure P-3 was dismissed.

2. In nutshell, Ujjagar Singh @ Jaggar Singh father of the complainant, was owner of land measuring 47 kanals situated in village

Raigarh. He died on 12.01.2011, leaving behind his widow, three sons and

two daughters. On the basis of a registered Will allegedly executed by Ujjagar Singh @ Jaggar Singh, his sons, namely; Jarnail Singh and Sukhdev Singh, being beneficiaries of the Will got entered mutation bearing No. 1475 in their favour. The petitioner lodged a protest before the revenue authorities that the Will on the basis of which mutation was sanctioned was forged one and was never executed by his father Ujjagar Singh @ Jaggar Singh. Simultaneously, the petitioner also filed a civil suit challenging the genuineness of the aforesaid registered Will. Consequently, the Sub Divisional Magistrate-cum-Assistant Collector Ist Grade, Rampura Phul, vide order dated 13.10.2011, adjourned the said mutation No. 1475 *sine die* till the decision of the civil suit. However, the alleged beneficiaries of the aforesaid Will, namely; Jarnail Singh and Sukhdev Singh, brothers of the complainant filed an appeal against the said order dated 13.10.2011, which was dismissed by the Collector, Bathinda, vide order dated 23.07.2012 (Annexure P-2).

3. With the same allegations, the petitioner also filed a Criminal Complaint dated 11.05.2012 (Annexure P-5) under Sections 420, 467, 468, 471 and 120-B IPC, against his brothers, impleaded the revenue officials and Numberdar of village Rajgarh as well, for entering another mutation No. 1460 on the basis of aforesaid Will, despite the fact that earlier mutation No. 1475 had already been adjourned *sine die* in connivance of each other which was dismissed by the learned Judicial Magistrate Ist Class, Phul, vide order dated 09.05.2014 (Annexure P-1). The petitioner filed revision petition against the said order dated 09.05.2014, which too was dismissed by the learned Additional Sessions Judge, Bathinda, vide order dated 12.05.2016 (Annexure P-4).

4. Learned counsel for the petitioner contends that once mutation No. 1475 was ordered to be adjourned *sine die* vide order dated 13.10.2011, by the Assistant Collector Ist Grade, Rampura Phul, in that eventuality, another mutation bearing No. 1460 could not have been sanctioned by the revenue authorities with regard to the same property. Respondents No. 1 and 2, the revenue officials and Numberdar of the village (respondents No. 3 to 5) in connivance of each other have committed fraud and, thus, the learned Magistrate, ought to have tried the respondents under Sections 420, 467, 468, 471 and 120-B IPC, instead of dismissing the complaint of the petitioner.

5. I have given my anxious consideration to the submissions made by learned counsel for the petitioner.

6. It is needless to mention here that mutation does not confer any title. Sanctioning or re-sanctioning of any mutation or adjourning any mutation *sine die* has no material bearings or in other words, does not effect the merits in civil suits. Admittedly, the petitioner is already pursuing his remedy in Civil Court by challenging the Will in question in favour of his younger brothers. In the impugned complaint Annexure P-5, the petitioner has alleged that undue pressure was exercised upon this father Ujjagar Singh @ Jaggar Singh for execution of the registered Will bearing Vasika No. 307 dated 29.09.2008. This own averment of the petitioner shows that no forgery was committed by his brothers, while executing the Will in question. In view of this factual aspect, the learned Judicial Magistrate Ist Class, Phul, in the impugned order dated 09.05.2014 (Annexure P-3), has rightly observed that the above pleading of the petitioner, indirectly amounts to his admission regarding the genuineness of the Will. Since, the

petitioner has not been able to prove any of the ingredients of Sections 467, 468 and 471 IPC, therefore, I am not inclined to differ with the findings recorded by both the Courts below in the orders dated 09.05.2014 and 12.05.2016 (Annexures P-3 and P-4, respectively. Since, as discussed above, the mutation does not confer any title, therefore, re-sanctioning of any fresh mutation against the same property does not provide any cause of action to the petitioner, when he has already availed his remedy on civil side. More so, the enquiry has been ordered by the Collector qua the mutation in question, so the grievance of the petitioner, if any, shall also be redressed therein.

7. In view of the above discussion, the instant petition being completely devoid of any merit is dismissed.

July 20, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No