

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-13803 of 2016 (O&M)

Date of Decision: May 08, 2017

Kailash Chand

...Petitioner

VERSUS

Pawan Kumar Gupta

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jagdish Manchanda, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 19.03.2013 passed by learned Chief Judicial Magistrate, Kaithal in criminal complaint No.RBT No.117 of 2012 under Section 467, 420, 34 and 120-B IPC, Police Station Pundri, District Kaithal as well as quashing of order dated 19.03.2013 passed by learned Addl. Sessions Judge, Kaithal, vide which the revision filed by the petitioner was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Kailash Chand filed a complaint against Arvind Kumar, Ramesh Chand Gupta, P.K.Gupta and Smt.Krishna under Sections 467, 420, 34 and 120-B IPC. Further, I find that the

proceedings against accused No.2 Ramesh Chand Gupta have been dropped due to his death. Accused Smt.Krishna has been declared proclaimed offender. Learned CJM, Kaithal, vide order dated 19.03.2013 dismissed the complaint against P.K.Gupta (respondent in this case) and he has been discharged.

I have perused the orders passed by both the Courts below and find that the same are correct, as per evidence and law and no illegality has been committed while passing the impugned orders. The only allegation against accused Pawan Kumar Gupta is that on the asking of the accused No.2 Ramesh Chand Gupta and Surender Kumar paternal uncle of accused No.2, he had sent some letters to Raghbir Singh father of the complainant after his death and also produced Will dated 09.07.1990 in the Court in civil suit No.626 of 1994 and accused P.K.Gupta was summoned under Section 120-B IPC. The Court held that complainant mainly relied upon civil court judgment wherein the Will which was in favour of other accused and which was got produced by the present complainant from P.K.Gupta, has been declared as forged one. In that civil suit present P.K.Gupta was not a party. He was only a witness who produced the Will. The civil Court has not given any finding that P.K.Gupta has also conspired with other accused in preparing the Will.

Learned CJM, Kaithal, also held that a civil suit was filed by the present complainant for mandatory injunction directing defendant-P.K.Gupta to produce the envelop in the Court, which means that present complainant also asked P.K.Gupta to appear in the suit and to produce the envelop and the Will so that he may not tamper with the Will. Learned

Court further held that in the civil suit, it was held that Ramesh Chand

Gupta accused No.2 failed to prove due execution of Will dated 09.07.1990 and Will was surrounded by suspicious circumstances and Will is forged and fabricated.

The findings given by the Civil Court are not binding on the criminal Court. In this case, the complainant is to prove independently by leading cogent evidence that Will is forged and fabricated document and P.K.Gupta has colluded with other accused in preparing the forged Will and false documents. Accused P.K.Gupta has only been summoned under Section 120-B IPC.

In view of the above discussion, I find that the impugned orders passed by both the Courts below, are correct, as per evidence and law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

May 08, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No