

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-17775 of 2014

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Date of decision:8.2.2017

Satish Kumar Jain

.....Petitioner

v.

State of Haryana and another

.....Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Bipan Ghai, Senior Advocate with Mr. Paras Talwar,
Advocate for the petitioner.

Mr. B.S. Virk, Deputy Advocate General, Haryana for
the respondent-State.

Mr. Vivek Anand, Advocate for complainant-respondent No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.395 dated 19.8.2012 (Annexure-P.1) registered for the offences under Sections 406, 420, 467, 468, 471, 506 and 120-B IPC at Police Station Ambala City, District Ambala and all subsequent proceedings arising therefrom including the challan report (Annexure-P.2).

Notice of motion was issued in this case.

Mr. B.S. Virk, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State and Mr. Vivek Anand, learned Advocate has appeared for the complainant-respondent No.2 and

contested this petition.

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

From the record, I find that the FIR in the present case has been got registered by Sannat Jain-private respondent No.2 on the basis of complaint filed under Section 156(3) Cr.P.C. in the Court of learned Chief Judicial Magistrate, Ambala. It is mainly stated in the FIR that father of the complainant late Raman Lal Jain were four brothers i.e. Praduman Kumar Jain, Om Parkash Jain, Surinder Kumar Jain and the father of the complainant. The father of the complainant and his brothers were carrying on Joint Hindu Family business consisting of five respective firms, industries and rice mills and all the four brothers were partners and another rice mill M/s Nanyola Rice and General Mills, was constructed by the father of the complainant while purchasing land and constructing building from joint assets of the family. The father of the complainant was whole-sole in-charge and pivotal in running the above said rice mill. Since the business of the rice mill was a partnership business and a partnership deed to the same effect was registered in way back in 1974 and the father of the complainant was made the sole Managing Partner of M/s Nanyola Rice and General Mills, District Ambala and all his brothers were sleeping partners as it was only the father of the complainant, who purchased the land on which the Rice Mill was constructed in the capacity of a Managing Partner and attorney holder of his partners in the year 1974. At the time of death of his father on 18.2.1984, the complainant was minor and his mother was a

housewife, who knew nothing about the technicalities of the business, what to say about the partnership deed, as such the accused Om Parkash Jain along with accused Nos.1, 3 and 4 in pursuance of criminal conspiracy laid the foundation of grabbing the share of the complainant, his sisters and mother and in pursuance of their criminal conspiracy, they on 20.9.1989 without joining the mother of the complainant or any relation from their side forged a family settlement showing the complainant to be shareholder of 20% and concealed the partnership deed fabricated in the year 1988 while over cropping the partnership deed of the year 1984 as in the partnership of 1988 they already had grabbed the shares of the complainant and that of his mother and sisters. The accused Om Parkash Jain hatched the conspiracy along with accused Nos.1, 3 and 4 and entered into a new partnership deed in the year 1988. It is stated that the terms and conditions of the partnership deed entered on 19.2.1984 and such recital clearly speak volume of fraud and mala fide intention of the accused to cheat and defraud his real brother's family. It is also in the FIR that the Rice Mill consisting of the entire land and building had been sold vide sale deed dated 11.5.2011 to Smt. Charanjit Kaur.

A perusal of the FIR itself shows that the partnership deed which the complainant now alleging as fraud etc. was of the year 1984 and the FIR had been registered on 19.8.2012 i.e. after about more than 27 years. It is settled law that though the delay is no ground for quashing the FIR, but the delay of years together can be one of the grounds for quashing the FIR. There is nothing on the record as to why this partnership deed had

not been challenged at least by the mother of the complainant in the year 1984 if any fraud had been played upon the family of Raman Lal Jain father of the complainant. Annexure-P.3 is the copy of the partnership deed which was registered on 27.9.1974 in the name of Raman Lal Jain along with present petitioner Satish Kumar Jain and others are shown as partners. Annexure-P.4 is the assessment order of this M/s Nanyola Rice & General Mills, Nanyola (Ambala) for the assessment year 1978-79. As per this assessment order, Raman Lal Jain was having share of 5% and Satish Kumar Jain was having share of 30%. As per document Annexure-P.7 Instrument of Partnership, Satish Kumar Jain-present petitioner's share has been shown as 25%. In no way, from this document, it can be held that Satish Kumar Jain has benefitted from this partnership deed of 19.2.1984. Rather, as discussed, earlier the share of Satish Kumar Jain-petitioner was 30%. In no way, this can be held that he had taken any benefit. The copies of partnership deeds of other family partnerships have been placed on record. It looks that a family settlement took place between the parties qua the settlement of all these partnerships etc. It has also been argued by learned counsel for the petitioner that even the present petitioner-Satish Kumar Jain had not signed the family settlement.

Keeping in view the above facts, I find that the family settlement which took place between the parties, the copy of which has been placed on record as Annexure-P.13, is also not signed by the present petitioner. Therefore, no allegation of forgery/forging the documents are there qua the present petitioner. As already discussed, rather, the share of

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the present petitioners has been reduced to 25% instead of 30% which further shows that the petitioner had not gained anything from the fresh partnership after the death of father of the complainant.

Furthermore, as already stated that this partnership deed has been executed on 19.2.1984 which the complainant is stating as a result of fraud etc. and by that partnership the complainant has been cheated. The complainant remained silent for long period and on the ground of delay also this FIR qua the present petitioner is liable to be quashed.

Therefore, from the above discussion, I find that the registration of the FIR against the present petitioner is nothing but an abuse of the process of law and amounts to miscarriage of justice. As such, finding merit in this petition, the same is allowed. FIR No.395 dated 19.8.2012 (Annexure-P.1) registered for the offences under Sections 406, 420, 467, 468, 471, 506 and 120-B IPC at Police Station Ambala City, District Ambala and all subsequent proceedings arising therefrom are hereby quashed qua the petitioner.

February 8, 2017.

(Inderjit Singh)
Judge

hsp

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