

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

CRL. MISC. No.M-29075 OF 2016
DATE OF DECISION : 22nd MARCH, 2017

Gurjeet Singh & others

.... Petitioners

Versus

State of Punjab & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. R. S. Bajaj, Advocate for the petitioners.

Mr. Daljeet Singh Virk, DAG, Punjab.

Mr. S. S. Sidhu, Advocate for the complainant.

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A. B. CHAUDHARI, J.

The petitioners have filed the present petition under Section 482 Cr.P.C. seeking quashing of FIR No.82 dated 10.07.2015 registered under Sections 419, 420, 465, 467, 468, 471 & 120-B IPC at Police Station City Jalalabad, District Fazilka, in view of compromise.

Learned counsel for the petitioners has sought quashment of the FIR on the ground that the subject matter of the FIR was the subject matter of the civil litigation between the parties, which has finally culminated into the judgment and order from this Court in a second appeal after which there is no challenge. The issue in the civil suit was about the Will made by Ram Krishan Lal, who was issueless, in favour of petitioner No.2 and which was acted upon after his death on 12.10.2008 and thereafter the mutation was carried out accordingly. He then

submitted that despite the culmination of the subject matter of the civil litigation the FIR in question was filed by respondent No.2 on the same set of facts and not only that there was earlier investigation and enquiry report dated 18.09.2010 wherein also it was found that it was civil dispute. Therefore, filing of the application is abuse of process of law.

Learned counsel for the respondent vehemently opposed the petition and argued that even after civil litigation has ended as stated by learned counsel for the petitioner, the criminality or the criminal offences when they are made out, do not automatically loose the ramifications thereof. According to him if the criminal offences are made out the Court cannot quash the same. He then submitted that ultimately the matter is of trial wherein the ground raised by the petitioner can be very well looked into and therefore, there is no need to interfere with the FIR in question.

Heard learned counsel for the rival parties at length. I have perused the FIR No.82 dated 10.07.2015 referred to above. I have also perused the entire record.

It is not in dispute that the Will in respect of which forgery and fabrication has been alleged in question was admittedly the subject matter of civil suit that was filed by respondent No.2 contending that the said Will was fabricated and forged. It is also not in dispute that the Court recorded the following findings:

“.....Perusal of the jamabandi for the year 1999-2000 Mark-A would reveal that Ram Kishan was recorded to be the owner of the suit property.

However, in the same very Jamabandi, there is an

entry of mutation No.11957 with red ink. Perusal of the said entry would reveal that after the death of Ram Kishan allottee, the suit property was mutated in favour of Nar Singh son of Bikkar Singh. Meaning thereby, Nar Singh son of Bikkar Singh is the recorded owner of the suit property on the basis of Will executed by Ram Kishan. Ram Kishan was the owner of the disputed property is an admitted fact which has not been controverted by the parties.... .

16. From the totality of the evidence on record, it stands duly proved that defendant is the owner in possession of the disputed property and hence the question of redemption of mortgage does not arise. Ram Kishan was the original owner of the disputed property and the defendant, after the death of Ram Kishan stepped into his shoes and has become the owner of the suit property. Hence issues No.1 to 7 are decided against the plaintiff and in favour of the defendant.”

Thus the said judgment and decree went against respondent No.2 who then filed first appeal before the District Judge, which was dismissed vide order dated 26.11.2014. Thereafter the petitioner filed RSA No.2808 of 2015 in this Court and it appears that during that interregnum he filed the FIR in question. The said RSA was also dismissed by this Court and thereafter the same was not put to challenge by him.

It is thus clear from the above facts that the issue about the forgery and fraud regarding the Will was decided on merits by the Civil Court and confirmed up to this Court in RSA No.2808 of 2015. It is also seen from the record that FIR No.82 dated 10.07.2015 is again on the same allegations that the will was forged and fabricated.

In my opinion, respondent No.2 cannot be allowed to reck up the issue again and again which is an abuse of Court of law. Having lost the litigation, respondent No.2 has chosen novel method of filing the FIR which cannot be allowed.

In that view of the matter, the following order is inevitable:

ORDER

- (i) CRL. MISC. No.M-29075 OF 2016 is allowed.
- (ii) Rule is made absolute in terms of the prayer, which reads thus:

“Keeping in view the facts and circumstances of the case and in the interest of justice, present petition may kindly be allowed and FiR No.82 dated 10.07.2015, P.S. City Jalalabad, District Fazilka U/ss 419, 420, 465, 467, 468, 471, 120-B IPC (P-5) as well as all subsequent proceedings flowing therefrom, may kindly be quashed.”

22nd March, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>No.</i>