

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

**CRM No.M-31095 of 2013 (O&M)
Date of Decision:- March 21, 2017**

Amar Kaur and others

...Petitioners

VERSUS

Tej Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajesh Bhateja, Advocate
for the petitioners.

Mr.S.S.Dinarpur, Advocate
for the respondent.

INDERJIT SINGH, J.

The petitioners have filed this petition under Section 482 Cr.P.C. against respondent Tej Kaur for quashing of criminal complaint No.147-T dated 01.10.2009 titled as 'Tej Kaur vs. Amar Kaur and others' and for quashing of summoning order dated 15.06.2013 passed by learned Judicial Magistrate Ist Class, Patiala, whereby the petitioners have been summoned to face trial under Sections 419, 420, 467, 468, 471 and 120-B IPC along with all consequent proceedings arising therefrom.

Notice of motion was issued. Learned counsel for respondent appeared and contested the petition.

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

From the record, I find that Tej Kaur complainant filed a complaint against Amar Kaur, Sucha Singh Nambardar, Maghar Singh and

Amarjit Singh under Sections 419, 420, 467, 468, 471 and 120-B IPC. The

main allegations in the complaint against the accused are that Sher Singh had died on 23.03.2008, leaving behind his legal heirs including the complainant. As per the complaint, a false, forged and fabricated Will dated 31.12.2008 has been prepared by impersonating somebody else as Sher Singh, who had already died on 23.03.2008 and this Will has been got registered.

Learned JMIC, Patiala, vide impugned order dated 15.06.2013 summoned the accused under Sections 419, 420, 467, 468, 471 and 120-B IPC. The photocopy of the Will has been placed on record, which shows that Will is thumb marked by Sher Singh and attested by Amarjit Singh and Maghar Singh. No date has been mentioned on which this Will has been scribed and executed. The perusal of the endorsement regarding registration over the will shows that it was registered later on 31.12.2008 and Amar Kaur, the beneficiary has been shown in the photograph taken at the time of registration of the Will. Further, the endorsement shows that some notice was given for registration of this Will but nobody appeared to raise any objection to the registration of the Will and Will was registered on 31.12.2008.

The perusal of the record shows that there is nothing to show that this Will was executed on 31.12.2008 after the death of Sher Singh by impersonating someone as Sher Singh.

Learned counsel for the petitioners has placed on record the report of Navdeep Gupta, Handwriting and Finger Prints Expert, which is Annexure P-4, who has stated that thumb impression on the disputed Will has been compared with the standard thumb impressions and these were

shows that complainant also got examined Dr.Inderjit Singh, Handwriting and Fingerprints Expert, who tendered into evidence his detailed report Ex.C10 and opined that Will has been prepared with the pre-existing thumb impressions. This report nowhere shows that this thumb impression is not of Sher Singh and some other person has been impersonated or marked thumb impression.

It is admitted at the time of arguments that a civil suit was filed by the complainant, which was dismissed in default and the application for restoration of that civil suit is still pending. The perusal of the record shows that at this stage, there is nothing on the record to show that this Will has been executed by impersonation after the death of Sher Singh. Rather, the report of Handwriting and Fingerprints Expert shows that thumb impression was of Sher Singh.

The perusal of the record shows that dispute between the parties is regarding the validity of the Will and it is to be decided by the Civil Court. The dispute is of civil nature. The filing of the present complaint is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. The criminal complaint No.147-T dated 01.10.2009 titled as 'Tej Kaur vs. Amar Kaur and others', summoning order dated 15.06.2013 passed by learned JMIC, Patiala and all the subsequent proceedings arising therefrom are hereby quashed.

March 21, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No