

111.

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

CRM-6726-2016 IN/AND

CRM-M-4227-2010

Date of decision:16.08.2017.

SURJIT SINGH

... Petitioner

versus

STATE OF PUNJAB AND ANOTHER

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Maninder Singh Bajwa, Advocate,
for the applicant-respondent No.2.

Mr. Harchand Singh Batth, Advocate,
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

HARI PAL VERMA, J.

CRM-6726-2016

Prayer in this application filed under Section 482 Cr.P.C. is
for fixing the present petition for some actual date of hearing.

For the reasons stated in the application, same is allowed
and the case is taken on board.

CRM-M-4227-2010

Petitioner-Surjit Singh has filed the present petition under
Section 482 Cr.P.C. for quashing of FIR No.69 dated 28.04.2007 under
Sections 419/420/467/468/471/120-B IPC, registered at Police Station
Ajnala, Amritsar (Rural).

The aforesaid FIR was registered on the basis of a complaint moved by respondent No.2-Balwinder Kaur under Section 156(3) Cr.P.C. As per the complaint, the husband of complainant-respondent No.2, namely, Kashmir Singh was an Ex-serviceman who had retired from Indian Army. He was owning various properties including one located in Village Jauns, Tehsil Ajnala, District Amritsar. Unfortunately, no child was born out of the wedlock of Kashmir Singh and Balwinder Kaur-complainant. Therefore, they adopted a female child within their relations, who is presently married to one Kuldip Singh. After retirement, Kashmir Singh was living in Village Jauns along with his wife-Balwinder Kaur (complainant). He was looking after his properties. Accused No.1-Amrik Singh is the real brother of Kashmir Singh (i.e. husband of complainant). Surjit Singh (petitioner) and Ranjit Singh are the real sons of Amrik Singh, Kulwant Kaur is the wife of Amrik Singh, whereas the other accused, namely, Avtar Singh and Nirmal Singh are residents of the same Village i.e. Jauns. Though Kashmir Singh was living a happy married life, but the accused, who are brother, nephews and sister-in-law of Kashmir Singh had an evil eye upon his properties. On 23.11.2006, Kashmir Singh died in the house of the accused after drinking tea. The accused told the complainant that her husband (Kashmir Singh) had died due to heart attack. The complainant never doubted the accused because they were in close relations and, therefore, allowed to cremate Kashmir Singh.

became exclusive legal and lawful owner in possession of the estates left behind by her husband-Kashmir Singh. Accordingly, she applied to the revenue authorities for sanctioning of mutation in her favour which was duly sanctioned by the revenue authorities after verification and on the basis of natural inheritance. However, on 20.12.2006, the accused started threatening the complainant to leave the village and when she had opposed this move, she was disclosed that Kashmir Singh had executed a Will dated 16.10.2006 of his properties in favour of the accused, namely, Surjit Singh (petitioner) and Ranjit Singh. The alleged Will was shown to the complainant which contained forged thumb-impression of deceased-Kashmir Singh. From the perusal of Will, it transpired that it was scribed by Amrik Singh (father of accused-Surjit Singh (petitioner) and Ranjit Singh in active connivance and in conspiracy with Kulwant Kaur (wife of Amrik Singh). It was further revealed that the Will was attested by Hardial Singh, Sarpanch of the village and other accused, namely, Avtar Singh and Nirmal Singh. On the basis of this frivolous Will, the accused started giving threats to the complainant, for which, she submitted a complaint to the Deputy Superintendent of Police against the accused for preparing a forged and fabricated Will of her husband. During the course of enquiry, Hardial Singh, Sarpanch, gave an affidavit to the Enquiry Officer that no such Will was ever executed by deceased-Kashmir Singh during his lifetime and the thumb-impression of Kashmir Singh

basis of complaint, FIR in question was registered.

On 06.08.2012, this Court, while admitting the petition, has passed the following order:-

“Petitioner seeks quashing of FIR registered at the instance of Balwinder Kaur widow of Kashmir Singh, alleging that Amrik Singh, father of the petitioner alongwith others had fabricated a Will dated October 16, 2006 by forging the signatures of deceased Kashmir Singh. A civil Suit has been filed by the complainant challenging the Will.

It has been submitted by counsel for the petitioner that the petitioner is not claiming any benefit under the Will which was allegedly forged in favour of the petitioner. Besides this, there does not appear to be any specific allegation against the petitioner for having participated in the act of fabricated/forging of the Will. It has been submitted that the petitioner is neither in possession of the property which is subject matter of the Will nor he is claiming any right.

Prima facie, the complaint under Section 156 (3) Cr.P.C. does not contain any specific allegation against the petitioner. The controversy, if any, appears to be subject matter of the civil suit.

Admitted.

Further proceedings against the petitioner will remain stayed.”

It has been pleaded by respondent No.2-complainant that her husband-Kashmir Singh had died on 23.11.2006 in the house of the petitioner in suspicious circumstances. The property left by her husband was mutated in favour of complainant being wife of deceased-Kashmir Singh, but the petitioner accused hatched a conspiracy and had forged the Will dated 16.10.2006. Accordingly, the complainant moved a complaint under Section 156(3) Cr.P.C. on the basis of which, FIR in question was registered. The petitioner and his brother Ranjit

No.2-complainant before the Collector, Baba Bakala, who while cancelling the mutation had remanded back the case to Tehsildar-cum-AC Ist Grade, Ajnala, who again mutated the land in favour of respondent No.2-complainant. Again on 27.10.2008, the petitioner and his brother Ranjit Singh have filed a suit for declaration and permanent injunction against the complainant restraining her from alienating the suit property. The said suit was dismissed in default on 15.07.2013. The petitioner had never approached the civil court seeking restoration of the suit. The land which was the subject matter of mutation was sold in the year 2008. After that, the petitioner and his brother lost their interest over the land in dispute, which shows that they have no connection with the property in dispute and when they visualised that they will not succeed in their evil designs, they left the property. Thereafter, they started claiming that they have no concern with the property in dispute nor they are the beneficiaries.

Heard.

The factum of sanction of mutation in favour of complainant and the dismissal of the suit filed by the petitioner have never been brought to the notice of this Court by the petitioner. The order dated 06.08.2012 was obtained without disclosing the factum of filing of civil suit and its dismissal in default. The suit land was sold in the year 2008 by the complainant and even thereafter, the said property has further been sold by their respective owners to other interested persons. Thus, the petitioner has concealed a very crucial fact from this

Court at the time when the order dated 06.08.2012 was passed. Admittedly, on 27.10.2008, the petitioner along with co-accused/ brother, namely, Ranjit Singh filed a civil suit which was dismissed in default on 15.07.2013 and was never restored.

Since the very factum of filing of a civil suit was not disclosed at the time when order dated 06.08.2012 was passed, this Court does not find any merit in the present petition. Accordingly, present petition is dismissed not only for reasons stated hereinabove, rather for concealment of facts as well.

(HARI PAL VERMA)
JUDGE

16.08.2017
sanjeev

Whether speaking/reasoned	Yes/No.
Whether Reportable:	Yes/No.