

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-18623 of 2014 (O&M)

Date of Decision: 03.08.2018

Sonia & others

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Mr. Vishal Sharma, Advocate for
Mr. Munish Puri, Advocate
for respondent no.2.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.66 dated 16.04.2013 under Sections 420, 465, 467, 468, 471, 120-B IPC registered at Police Station Sujampur, District Gurdaspur along with all consequential proceedings arising therefrom.

Brief facts of the case are that petitioner no.1-Sonia was married to Bhaskar Anand on 29.09.2009 and out of this wedlock, one daughter was born. However, Bhaskar Anand died on 06.06.2012 in a motor accident, leaving behind petitioner no.1 Sonia (widow) and one minor daughter Akriti. Petitioners no.2, 3 and 4 are mother, father and

brother of petitioner no.1. It has been averred that the FIR in question has been lodged at the behest of Radha Raman Mishra, complainant, father-in-law of petitioner no.1, who is a retired DFSO from Punjab Government. As per the FIR, petitioner no.1, on the basis of false version in connivance with the staff of the revenue department has got the mutation sanctioned of property owned by Vijay Luxmi (mother of Bhaskar Anand) in her favour, whereas Bhaskar Anand, in the presence of relatives and respectables, had expressed his willingness that he has transferred his half share of property in favour of his sister Shagun Mishra (daughter of the complainant) vide Will dated 10.05.2012. However, when the complainant approached the revenue authorities, it transpired that the petitioner no.1 in connivance with concerned staff of the revenue department, has got the mutation sanctioned in her favour by making false assertions.

Learned counsel for the petitioners has submitted that there is no dispute so far as marriage of petitioner no.1-Sonia with Bhaskar Anand is concerned and that a daughter was born out of this wedlock on 05.10.2010. He has submitted that Vijay Luxmi, mother-in-law of petitioner no.1 and mother of Bhaskar Anand had executed a Will dated 19.06.1999 in favour of Bhaskar Anand (husband of petitioner no.1) and thus, the property left out by Vijay Luxmi devolved upon Bhaskar Anand by virtue of the Will. However, Vijay Luxmi died on 03.02.2000. Resultantly, the Will dated 19.06.1999 came into force and the property owned by Vijay Luxmi was transferred in the name of Bhaskar Anand vide mutation (Annexure P-2). Bhaskar Anand also died on 06.06.2012.

He has further argued that merely because there was some wrong entry in the mutation, which otherwise stands rectified by the revenue authorities, the criminal machinery cannot be put in motion against the petitioners. The very FIR is nothing but an abuse of process of law. The petitioner no.1 has not derived any benefit from the complainant. Rather, she is claiming the property left out by her late husband Bhaskar Anand, being the Class-I heir. He has further submitted that assuming for the sake of arguments that the name of Radha Raman Mishra is found mention in the initial revenue records, it would not have changed the character of inheritance in favour of petitioner no.1. Radha Raman Mishra being father of Bhaskar Anand is not a Class-I heir. He has further argued that the complainant has pleaded a Will dated 10.05.2012, left out by Bhaskar Anand in favour of his sister, but that matter is pending before the Civil Court and the parties shall be bound by outcome of the decision of the Civil Court.

On the other hand, learned counsel for respondent no.2-complainant has argued that the petitioner no.1 in connivance with Halqa Patwari has manipulated the revenue record and accordingly, the name of the complainant-respondent no.2 was intentionally omitted from the pedigree table. He has referred to the statement of Harsh Kumar, Patwari, wherein he has stated that on 17.08.2012, petitioner no.1-Sonia widow of Bhaskar Anand along with other accused had come to his office and she had produced the death certificate of her husband Bhaskar Anand and asked him to sanction mutation of land of her husband in her favour and her daughter Akriti. She had also told him that mother of Bhaskar Anand

namely Vijay Luxmi and father namely Radha Raman Mishra have already expired and she and her daughter Akriti are the only legal heirs. In this manner, the Patwari entered the mutation in their favour.

I have heard learned counsel for the parties.

The dispute with regard to entry of mutation is the very basis for registration of the FIR in question. The petitioner no.1 has claimed mutation being the widow of Bhaskar Anand, who died on 06.06.2012. There is no dispute that Vijay Luxmi died on 03.02.2000 and the Will dated 19.06.1999 was executed by Vijay Luxmi in favour of her son Bhaskar Anand. Though there is another daughter of Vijay Luxmi, but she is not a Class-I heir and therefore, whatever right had accrued to Bhaskar Anand, was likely to have devolved upon his widow and daughter, being Class-I heirs. Even otherwise, as regards the Will executed by Bhaskar Anand dated 10.05.2012 in favour of his sister is concerned, the same is already a matter of civil litigation between the parties and therefore, the parties shall be bound by the decision of the Civil Court.

It has further been pointed out that in the aforesaid FIR, police had conducted investigation and had prepared a cancellation report, though thereafter, challan has been filed. In this background of the matter, this Court finds that the present FIR is nothing but a tool to harass the petitioners. Accordingly, the present petition is allowed and the present FIR No.66 dated 16.04.2013 under Sections 420, 465, 467, 468, 471, 120-B IPC registered at Police Station Sujampur, District Gurdaspur along with consequential proceedings arising therefrom is hereby quashed.

At this stage, it has been pointed out by learned counsel for respondent no.2 that respondent no.2-Radha Raman Mishra is an old person and he has no house to stay in. It is, therefore, directed that so long as Radha Raman Mishra is alive, petitioners shall not disturb his possession in the house in which he is staying, as it is because of him the property has vested in Bhaskar Anand.

It is made clear that since the parties are already in civil litigation, the observations made hereinabove shall be confined to the present petition only and the same shall not have any bearing in that case.

August 03, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No