

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

CRM-M-27648-2017

Date of decision:-31.5.2018

Harjinder Kaur and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Ashish Aggarwal, Advocate
for the petitioners.

Mr.C.L. Pawar, Sr.D.A.G., Punjab.

Mr.Sandeep S.Majithia, Advocate
for the complainant.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. seeking quashing of FIR No.46 dated 11.2.2016, under Sections 420, 465, 467, 468, 471 and 120-B IPC, registered at Police Station A-Division, District Amritsar City along with all the subsequent proceedings arising therefrom including order dated 3.7.2017 passed by Judicial Magistrate Ist Class, Amritsar has been filed by petitioners Harjinder Kaur, Satnam Singh @ Sonu, Sukhwinder Kaur, Baljit Kaur and Rajwinder Singh, all of them accused in the FIR in question.

Briefly stated, facts of the case are that FIR in question was recorded on the basis of a written complaint submitted by complainant –

Karanbir Singh son of Sukhjinder Singh, resident of 134, Gurnam Nagar, Sultanwind Road, Amritsar addressed to Commissioner of Police, Amritsar contending therein that his grandfather Gurcharan Singh had died on 17.10.2014; that Sh.Gurcharan Singh was having a bank account with Punjab & Sind Bank, Branch City Centre, Amritsar having account No.0466100002083, in which an amount of Rs.82,400/- was deposited by the Tower Company being rent of tower; that Gurcharan Singh had died intestate and after his death the complainant along with his mother Smt.Rani and sister Harpreet Kaur are his legal heirs since father of the complainant had pre deceased Sh.Gurcharan Singh, however, Jagjit Singh @ Vicky another son of Gurcharan Singh had expired and his wife had performed second marriage; that Jagjit Singh @ Vicky was having two children, a boy, namely Deepak and a daughter, namely, Taniya, who are also legal heirs of Sh.Gurcharan Singh; that two daughters of Sh.Gurcharan Singh, namely, Baljit Kaur and Sukhwinder Kaur and a son Satnam Singh, wife Harjinder Kaur are also his legal heirs; that on 11.4.2015, an application was submitted by Harjinder Kaur in the bank for withdrawal of money by producing a false affidavit in which no reference was made of complainant, his mother, sister and two children of late Jagjit Singh @ Vicky as legal heirs of Gurcharan Singh; that Rajwinder Singh husband of Baljit Kaur and M.P. Singh, Bank Manager put their attestation for withdrawal of money; that no succession certificate was obtained.

After registration of the FIR, the matter was investigated.

Now the challan has been filed and the case is pending trial.

The petitioners, who have been named as accused in the

FIR are seeking quashing of the FIR along with ancillary proceedings. According to them, no fraud as alleged in the FIR has been played; that as a matter of fact Sh.Gurcharan Singh during his life time had disinherited his son Sukhjinder Singh, who is none other than father of complainant Karanbir Singh; that Jagjit Singh @ Vicky another son of Sh.Gurcharan Singh had pre deceased him and his wife had left the matrimonial home and performed the second marriage and since then both the minor children of Jagjit Singh @ Vicky are under the custody and care of Harjinder Kaur – petitioner No.1 and she is looking after them; that during his life time Sh.Gurcharan Singh had delivered possession of one shop measuring 8 feet x 29 feet, three storeyed building situated at village Chogawan and a house bearing plot No.134 min situated at Sultanwind Road, Gurnam Nagar, District Amritsar to Sukhjinder Singh, where the complainant Karanbir Singh and his other family members are residing since then and in lieu of the said family settlement, Sukhjinder Singh and his family had vacated the house No.63, Kashmir Avenue, Amritsar where the petitioners No.1 and 2 along with other family members are residing; that Sukhjinder Singh had furnished an affidavit in that regard that neither he nor his family will claim any share in the property belonging to Sh.Gurcharan Singh deceased, as such no offence is disclosed against the petitioners; that petitioners had earlier approached this Court seeking grant of pre arrest bail wherein this Court after considering claim of complainant Karanbir Singh had observed that at the most the claim of the complainant to come between Rs.10,000/- to 15,000/- as legal heir of Sh.Gurcharan Singh; that the petitioners had got prepared a demand draft in the sum of

Rs.14,000/- in favour of complainant, which was handed over to him on 17.5.2016; that the petitioners were granted concession of pre arrest bail, however Karanbir Singh with a *mala fide* intention submitted a fresh complaint on 24.9.2016 levelling further allegations that all the petitioners in connivance with each other have prepared two forged wills dated 25.7.2014 and 14.8.2014 in order to grab the entire property belonging to Sh.Gurcharan Singh; that an inquiry was conducted by Additional Deputy Commissioner of Police (Crimes), Amritsar and he did not find any merit in the allegations but the investigating agency without considering the inquiry report under influence of Karanbir Singh filed the challan in the Court. Therefore, the petitioners pray for quashing of the FIR.

This petition is being resisted by the respondents. Respondent No.2 in the reply filed by him has challenged the maintainability of the petition further contending that the case in hand is not confined to misappropriation of only Rs.82,000/-; that the petitioners have also prepared two fake wills dated 25.7.2014 and 14.8.2014 besides submitting a false affidavit of Indus Tower Company stating that the building on which tower of Vodafone company is installed belongs to Sh.Gurcharan Singh, who had died on 17.10.2014 succeeded by petitioner No.2 Satnam Singh; that there is no mentioning of other legal heirs; that this fact came to the notice of the answering respondent during inquiry of the FIR; the inquiry was conducted by Deputy Commissioner of Police(Investigation), Amritsar City and allegations levelled by answering respondent were found to be correct and are duly reflected in the challan filed by the police in the Court of competent

jurisdiction; that the FSL has also given a specific finding that signatures on the wills are forged and fabricated. According to the answering respondent, he is entitled to get his share in respect of immovable assets and other moveable property; that the answering respondent, his mother and his sister have already filed a suit for declaration, possession by way of partition, mandatory injunction and permanent injunction, which is pending in the Court. As regards the challan filed against the petitioners/accused, it is contended that charge has since been framed against them and the remedy available with them was to file revision against the charge. Such respondent prays for dismissal of the petition.

I have heard learned counsel for the parties besides going through the record.

The FIR can be quashed mainly on two grounds, firstly, if it does not disclose commission of any cognizable offence and secondly if it is an abuse of process of law. In the present case from the perusal of the contents of the FIR prima facie commission of cognizable offences against the petitioners is disclosed and lodging of the FIR by the complainant cannot be termed as an abuse of process of law. It is a settled that that Civil action and criminal action can go hand in hand. Pendency of one does not bar initiation of the other. After completion of investigation, challan has been filed against the petitioners, charge has been framed and the matter is pending trial. It is only on conclusion of trial it can be found out that as to whether the petitioners have committed any offence or not.

I do not see any reason to accept the petition and to quash

the FIR along with ancillary proceedings.

The petition is dismissed accordingly.

(H.S.MADAAN)
JUDGE

31.5.2018

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No