

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

CRM-M-32847 of 2018
Date of Decision:02.08.2018

Kiran Singla

....Petitioner

Versus

State (Union Territory of Chandigarh) & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. A.D.S. Sukhija, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through the instant petition under Section 482 Cr.P.C., challenge has been laid to order dated 05.05.2018 (Annexure P-2), whereby complaint of the petitioner under Section 156(3) Cr.P.C was dismissed.

Briefly, the petitioner filed a complaint against her mother-in-law, husband, sister-in-law and her father-in-law, under Section 156 (3) Cr.P.C for referring the same to the police for registration of case under Sections 420/467/468/471/120-B IPC, levelling allegation against them that on the basis of a forged and fictitious Will of her father-in-law ousted her from matrimonial home under the garb of order dated 09.06.2016 of the District Magistrate, Chandigarh under Sections 21 and 22 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007(for short 'the Act').

On filing of the complaint aforesaid, learned Magistrate sent the same to the police for inquiry. Pursuant thereto, the police filed status report against the petitioner mentioning that House No.939, Sector 40, Chandigarh, has been transferred after due verification and issuance of public notice in the newspaper before transfer. Nobody came forward to

raise any objection against the transfer of house in favour of respondent No.4, who is none-else, but widow of the testator namely deceased Bal Krishan Singla.

Resultantly, learned Magistrate applying his mind took a view that there was nothing on the record to show that the respondents-accused had committed any offence as alleged and consequently, dismissed the complaint.

Learned counsel for the petitioner *inter alia* contends that the learned Magistrate ought not to have dismissed the complaint without recording preliminary evidence of the complainant. In any case, the trial Court was not empowered to comment on the merits of the case once a cognizable offence of committing cheating and fraud was averred in the complaint. The police has not concluded the investigation as yet, but despite that trial Court without appreciating this fact has dismissed the complaint. In support of his arguments, he places reliance on the decision of the Apex Court in Ramesh Kumari Vs. State of NCT of Delhi & ors., 2006(2) RCR (Criminal) 197.

Having considered the submissions made by learned counsel for the petitioner, I find that the instant petition is completely a gross abuse of process of law for the reasons to follow:-

The petitioner was married with respondent No.5 Denesh Singla on 13.07.2013. However, their marital life ran into rough weather, may be due to their temperamental differences. Father-in-law of the petitioner namely Bal Krishan Singla expired within six months of their marriage on 14.01.2014, leaving a Will dated 10.06.2013 qua the aforesaid house in favour of his widow respondent No.4. The petitioner instituted three cases

in all against her husband or respondents No.4 to 7 i.e. one complaint under Domestic Violence Act before the Chief Judicial Magistrate, Bathinda; and another under Section 125 Cr.P.C claiming maintenance. That apart, she got lodged FIR bearing No.34, dated 22.07.2016 under Sections 406/498-A IPC. All the above three cases are still pending.

On the basis of the Will executed by her deceased husband in favour of respondent No.4, she moved an application before the District Magistrate, Chandigarh, under Sections 21/22 of the Act, seeking direction to the petitioner to vacate her house aforesaid. Consequent thereto, District Magistrate, Chandigarh, came to the rescue of respondent No.4, who is an old widow lady and got vacated the house from the petitioner. Thereafter, the petitioner, to harass and torture respondents No.4 to 7 more and satisfy her whims and fantasies, may be on the basis of some ill advice, filed a criminal complaint under Section 156(3) Cr.P.C against respondents No.4 to 7, which, after receipt of the Status report, from the investigating agency, was dismissed by the learned Magistrate debarring the petitioner from unnecessarily harassing the respondents.

The petitioner with malafide intention, cleverly filed complaint under Section 156(3) Cr.P.C, though at the best, she could challenge the Will executed by her father-in-law in favour of her mother-in-law in civil Court by way of civil suit. However, she did not adopt such exercise deliberately and intentionally, may be knowing that she has no locus standi to file such a civil suit.

The petitioner, who has already exhausted her legal remedies against respondents No.4 to 7 by filing three different litigation against them. Therefore, respondents No.4 to 7 cannot be permitted to be harassed

any more by the petitioner.

I have gone through the impugned judgment and find no illegality in the same.

The facts and circumstances of the above-mentioned citation relied upon by learned counsel for the petitioner are not identical to the facts of the present, rather are completely distinguishable. Therefore, no benefit of the same can be given to the petitioner.

Even otherwise, on merits also, the petitioner has no legal right or locus standi to challenge the Will executed by her father-in-law in favour of her mother-in-law.

In view of the discussion above, this petition fails and is dismissed.

02.08.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No