IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-4697-2019 (O&M)
Date of Order:04.12.2019.

Harjit Singh Chima and another ..Petitioners

Versus

State of Punjab and another ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sangram Singh Saron, Advocate, and
Ms. Amisha Batra, Advocate, for the petitioners.

Mr. Hittan Nehra, Addl. A.G.,Punjab

Mr. Rajesh Garg, Sr. Advocate, with
Mr. Sundeep Kumar, Advocate,
for respondent no.2.

ANIL KSHETARPAL, J.

Jurisdiction of the High Court has been invoked under Section 482 Cr.P.C., seeking quashing of criminal prosecution initiated on registration of FIR No.148 dated 03.05.2018 registered at Police Station Zirakpur, District SAS Nagar, Mohali, for the offences punishable under Section 420/465/467/468 /471/120-B IPC.

Before this court proceeds to consider the arguments of learned counsels for the parties, it would be appropriate to draw a pedigree table (a family tree) so as to understand inter-se relationship between the parties.

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                         Gurdeep Singh Dhillon
----------------------------------------------------------------------------
Harbhajan Singh                  Mohinder Singh          Mahinder Kaur
        |                               |                         |
  Inderjit Kaur                  Maninder Kaur, married
(Petitioner No.2) married         to R.S.Grewal
to Harjit Singh Chima             Husband
Husband, Petitioner No.1          Respondent no.2
        |                            |
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Amaninderjeet   Priya       Rajbir Grewal         Ravneet Kaur
Singh
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Fact, whether Smt. Mohinder Kaur was married or spinster is not clear, however, would have no bearing on the fate of the present case. Smt. Mohinder Kaur is alleged to have executed a Will dated 26.11.2001 bequeathing her moveable and immovable assets in favour of Rajbir Grewal, son of respondent no.2. Smt. Mohinder Kaur is alleged to have sold property No. 156, Officer Colony, Rajpur Road, Dehradun, for a sum of Rs.6 Crores. Out of the proceeds, some amount was invested in purchasing house at village Bishanpur, Tehsil Dera Bassi, District Patiala whereas Rs.4 Crores 75 Lacs was invested in purchasing House no.158/26 Officer Colony Rajpur Road, Dehradun. Remaining amount was invested by way of capital gains and spent in the purchase of two cars. On 14.06.2005, the Ist Will was altered/modified and Smt. Mohinder Kaur decided to bequeath property No.158/26, Officer Colony Rajpur Road, Dehradun in favour of Ravneet Kaur and property at Deep Niwas , Zirakpur Road, SAS Nagar to Rajbir Grewal.

Smt. Mohinder Kaur was a well educated lady and had taught in a school at Dehradun. She also started her own school in the city of Dehradun after her retirement from the school job. However, in 2008, she shifted her base from Dehradun to Zirakpur. It is alleged that Smt. Mohinder Kaur got annoyed with Grewal's family. She got issued a notice to Raghbir Singh Grewal, respondent no.2, wherein she had alleged that respondent no.2 has siphoned off amount from the joint account and even some amount belonging to her (Smt. Mohinder Kaur) has been transferred into the account of Maninder Kaur and Ravneet Kaur. It is also alleged in the aforesaid notice that respondent no.2-R.S.Grewal is not handing over the original title deeds and when she obtained copies, she was shocked to find that respondent no.2 had got inserted/added name of Maninder Kaur as a co-purchaser in respect of property no.158/26, Rajpur Road, Dehradun. The notice is dated 14.07.2018. She, thereafter, alleged to have filed a complaint addressed to the Senior Superintendent of Police, SAS Nagar, Mohali for taking action against respondent no.2, his wife, son and daughter. In this complaint also, it was alleged by Smt. Mohinder Kaur that apart from cheating and usurping her property, she is entitled to get back Rs.1 Crore 30 Lacs which according to her has allegedly been siphoned off by respondent no.2 and his family members.

On 15.01.2009, Mohinder Kaur executed another registered Will in favour of the petitioners, namely Inderjit Kaur (Petitioner No.2) and Harjit Singh Chima (Petitioner No.1) (daughter and son-in-law of her brother Harbhajan Singh). Mohinder Kaur, thus, revoked her earlier testamentary dispositions. In the registered Will, it has been written that respondent no.2 and his family had breached her trust and faith and siphoned her life savings. Police also recorded her statement in the enquiry.

On 25.02.2009, Mohinder Kaur suffered a stroke and was admitted in the Fortis Hospital, Mohali. She was discharged on 17.03.2009. In the discharge summary, it is mentioned that she is conscious, cooperative and mentally alert. She was, thereafter, admitted in Grecian Hospital, Mohali and after recuperating, discharged on 23.03.2009 and thereafter remained alive upto 04.08.2012 i.e., for a period for 3½ years.

Mohinder Kaur was having a bank account with HDFC Bank, Branch at Zirakpur. She opened a short term FDR account out of the amount of Rs. 3 Crores 39 Lacs lying in the same bank. Respondent no.2-

Shri R.S.Garewal, lodged a complaint with Sub Divisional Magistrate, SAS Nagar, alleging that Mohinder Kaur had been confined against her wishes. On which, the statement of Mohinder Kaur was recorded wherein she stated that she is residing and living with the petitioners herein i.e. Inderjit Kaur and Harjeet Singh Chima out of her own free will and wish.

On the other hand, Smt. Mohinder Kaur after noting that no action had been taken on her complaint dated 16.10.2008 addressed to the Senior Superintendent of Police, filed another complaint through Smt. Inderjit Kaur requesting for expeditious action. Thereafter, Mohinder Kaur along with the petitioners herein filed a criminal misc. application in the High Court for directing the police authorities to take action on the complaint dated 16.10.008. The High Court vide order dated 01.04.2009 directed Senior Superintendent of Police, SAS Nagar Mohali to decide the representation within a period of 2 months. On maturity of short term FDR on 10.06.2009, it is alleged by respondent no.2 that petitioners in connivance with the bank officials opened a joint account with Mohinder Kaur. Smt. Mohinder Kaur thereafter decided to move back to Dehradun and therefore, closed her bank account with HDFC Bank at Zirakpur and opened a fresh joint account with petitioners in Punjab National Bank. She also executed a power of attorney and got notarized an affidavit in favour of the petitioners authorizing them to look after her properties. Subsequently, in 2010, Smt. Mohinder Kaur being at an advance age, shifted with the petitioners. Shri R.S.Grewal (Respondent No.2) filed Civil Writ Peititon No.2232 of 2010 for issuance of a writ in the nature of Habeas Corpus alleging that Smt. Mohinder Kaur has been illegally confined by the petitioners. Reply to the aforesaid petition was filed and ultimately the writ petition was disposed of, having been withdrawn as the court was informed that Smt. Mohinder Kaur was residing at Pune out of her own will and desire.

A compliant was lodged by Sh. R.S.Grewal, respondent no.2 with Senior Superintendent of Police, SAS Nagar, Mohali. In brief, the allegations were (1) that on 05.03.2009 when Smt. Mohinder Kaur was in ICU, the petitioners got shifted Rs.3,25,00,000/- to short term fixed deposit with the help of the manager of the HDFC Bank; (2) On 03.06.2009, Rs.3,26,60,00,000.59 was taken out of the HDFC Bank acount of Smt. Mohinder Kaur by the petitioners.

After enquiry, matter was sent for opinion of the District Attorney (Legal), who opined that since the civil suit is pending between the parties at Chandigarh, for same relief, therefore, there is no requirement of any action on the criminal side on the complaint.

A complaint was also made to the Commissioner of Police, Pune that Smt. Mohinder Kaur has been murdered by the petitioners. Similar complaint was made to Additional Director General of Police, Law and Order, Punjab Police Headquarters. Petitioner no.1 also lodged a complaint against respondent no.2 and his family members. Petitioners filed two civil suits against respondent no.2.

Respondent no.2 did not stop or felt deterred by the opinion of Deputy District Attorney which was approved by the Senior Superintendent of Police, SAS Nagar, Mohali as noted abvoe. He filed a fresh complaint with Senior Superintendent of Police, Chandigarh on the same allegations and assertions. The aforesaid complaint was also enquired into by the Economic Offences Wing. The detailed enquiry was held by associating

Bank officials and the police came to a conclusion that no criminal offence is made out against the petitioners. Maninder Kaur (from Grewal family), in the meantime, filed a civil suit in the Court of Additional Civil Judge (Senior Division), Derabassi, seeking declaration that the sale deed executed by late Smt. Mohinder Kaur for a sum of Rs.1,10,00,000/- is illegal and therefore, the sale deed be cancelled. It was further claimed that plaintiffs therein i.e. Maninder Kaur is the rightful owner of the suit property based on Will dated 26.11.2001, codicil dated 14.06.2005 and Will dated 05.02.2009.

Another suit filed at Chandigarh by Maninder Kaur claiming that plaintiffs are the rightful owners/recipient of Rs.3,25,00,000/- is also pending. In this suit, the Civil Court directed the parties to maintain status-quo.

Even after 2 complaints filed by respondent no.2 before the Senior Superintendent of Police, SAS Nagar, Mohali and Senior Superintendent of Police, Chandigarh, stood rejected, a fresh criminal complaint was filed before Sub Divisional Judicial Magistrate, Derabassi, on 17.07.2014, under Section 156(3) Cr.P.C. The Judicial Magistrate Ist Class vide order dated 20.09.2014, after examining the contents of the complaint, documents filed and the report of Station House Officer, held that no ground to direct registration of the FIR is made out. Hence, the complainant should lead evidence to prove its case treating it to have been filed under Chapter XV of Cr.P.C.

Respondent No.2, thereafter, filed a revision petition before the Court of Sessions which remitted the matter back to the learned Judicial Magistrate to reconsider the entire issue afresh and pass a speaking order.

Before the Judicial Magistrate could comply with the order passed by the learned Additional Sessions Judge, the FIR in question was registered by the police assuming that now the Court of Sessions has passed an order directing the registration of the FIR. In substance, the gist of the contents of the FIR which runs from page 31 to 48 of the paper book is extracted as under:-

> "*It has also come on record that Mohinder Kaur Dhillon never solemnized any marriage. She was residing in Zirakpur. Her saving bank account no.01541600001480 was in HDFC Bank Zirakpur. Where an amount of Rs.3 Crores 25 Lacs were deposited. On perusal of the medical record attached with the case file, it has come to light that Mohinder Kaur Dhillon was admitted in Fortis Hospital Sector-62, Mohali, in unconscious condition on 25.02.2009 (at 22:34). That as per the report of Dr. J.P.Singh Consultant Neurology, she was under ICU from 26.02.2009 to 10.03.2009. She was discharged from the hospital on 17.03.2009 and on the same day she was admitted in Grecian Hospital, Mohali. As per the report dated 21.03.2009 of Dr. Rita in Grecian Hospital, Mohinder Kaur Dhillon was not able to give statement. As per the certificate submitted by Dr. Shailza Kanwar Incharge of Fortis Hospital and Medical Officer Dr. Parwinder Kaur emergency, right hand of Mohinder Kaur was not working and in the report it was written that "At present she is bed ridden, she is unable to use her right hand and cannot comprehend simple commands. It has also come on record that when Mohinder Kaur Dhillon was admitted in the Fortis Hospital in ICU from 26.02.2009 to 10.03.2009, at that time F.D. of Rs.3 Crore 25 Lacs, was made in* ***<u>her name from</u>*** *her bank account no. 01541600001480 in HDFC Bank Zirakpur and later on a DD was made from the*

> *said F.D amount, and the opposite party Inderjit Kaur Cheema, along with Mohinder Kaur Dhillon, opened an account in Punjab National Bank, Sector 9, Chandigarh. From which she is withdrawing the money and using the same. Whereas, the complainant party has a Will dated 05.02.2009 with regard to the above money of Mohinder Kaur Dhillon and other property."*

Thereafter, respondent no.2 withdrew his private complaint as FIR had been registered. It may be significant to note here that the civil suit filed by Maninder Grewal and Rajbir Grewal before Civil Court at Derabassi claiming inheritance on the basis of the alleged Wills executed by late Smt. Mohinder Kaur has been dismissed by the Civil Judge vide judgment dated 18.02.2019 (Annexure P-29) against which civil appeal is pending.

From the reading of the FIR, gist of the substantive part whereof extracted above, it can be made out that precisely two allegations have been made. One is that when Smt. Mohinder Kaur had suffered brain stroke, Fixed Deposit of Rs.3 Crores 25 Lacs was made in her name after withdrawing amount from her saving account. Two, thereafter, a joint account was opened by Inderjit Kaur Cheema and Mohinder Kaur Dhillon in Punjab National Bank, from where petitioner no.2 is withdrawing the sum and using the same.

Learned senior counsel for respondent no.2 has filed synopsis according to which the alleged thumb impressions of Smt. Mohinder Kaur were taken by the Manager of HDFC Bank on 30.03.2009 for transferring the amount to FDR. Smt. Mohinder Kaur, was discharged from Fortis Hospital on 17.03.2009. Thereafter, she remained in Grecian Hospital, Mohali, for next six days i.e. Upto 23.03.2009. Thus, Smt. Mohinder Kaur cannot be said to be unconscious or mentally de-arranged when her thumb impressions were allegedly obtained.

On careful reading of the FIR, it is apparent that no date has been mentioned as to when the short term Fixed Deposit Receipt was opened in the HDFC Bank. Further, there are no allegation that when the amount was parked in the HDFC Bank, any amount was siphoned or moved to a joint account. Joint account was opened in Punjab National Bank on 11/12.06.2009. Further, it is apparent from the record that wife and son of respondent no.2 filed a suit at Chandigarh and it has been claimed that plaintiffs are entitled to amount of Rs.3 Crores 39 Lacs lying in the Punjab National Bank, Sector 9, Chandigarh, belongs to them. There is already an order of status quo passed by the Court on 31.05.2014. It is the plaintiffs in the aforesaid suit (Grewal family), who are delaying disposal of the suit as would be clear from various orders placed on the file. Thus, there is no siphoning of the funds as is sought to be projected in the FIR. Learned senior counsel for the respondent while filing synopsis, has not submitted that some amount of late Smt. Mohinder Kaur has been siphoned off by the petitioners.

Now let us examine the alleged criminal offence committed by the petitioners. It is not the case of the prosecution/first informant that fixed deposit of Rs.3 Crores 25 Lacs was in the joint name. Out of the amount already lying in the bank account of Smt. Mohinder Kaur, major amount was transferred to fixed deposit receipt so as to earn more interest. Such additional income of interest would be for the benefit of Smt. Mohinder Kaur.

Learned senior counsel appearing for the respondent, with great stress referred to the provisions of THE NATIONAL TRUST FOR THE WELFARE OF PERSONS WITH AUTISM, CEREBRAL PALSY, MENTAL RETARDATION AND MULTIPLE DISABILITIES ACT, 1999. He submitted that once it has been alleged that Smt. Mohinder Kaur after having been admitted to Fortis hospital with the history of brain stroke and was not in a position to even put thumb impressions of the right hand, the accused committed an offence as alleged. He referred in this regard made to the opinion of the Dr. Parvinder Kaur, dated 25.02.2009, that patient developed right side hemiplegia and at present she was bed ridden, unable to use her right hand and cannot comprehend simple commands. Hence, he submitted that opening of fixed deposit receipts was in violation of the provisions of the Act of 1999. Learned Senior counsel did not even attempt to argue, how offences under Sections 420/465/467/471/120-B IPC are made out.

First of all this matter has already been enquired into by the police and after recording the statements of bank officials it has been found that instructions/guidelines issued in such cases have been followed. Still further, for such an offence, it is incumbent on the first informant to aver and allege that there was any mens rea. The amount of Rs.3 Crores 25 Lacs had been converted into a fixed deposit receipt in the name of Smt. Mohinder Kaur, the original account holder. The entire amount from HDFC Bank is never alleged to have been siphoned of by petitioner nos.1 and 2. At the cost of repetition, Smt. Mohinder Kaur was discharged from the Fortis Hospital, on 17.03.2009. At the time of discharge, she had improved/regained health. She was found to be conscious, corporative and mentally alert on 17.03.2009. Thereafter, she remained admitted in Graecian

Hospital, Mohali, for a period of further six days and was discharged on 23.03.2009. She went back to her home at Zirakpur. Thereafter, in June, 2009 she executed a sale deed by appearing before the Sub-Registrar and also went to Punjab National Bank to open a joint account after closing the account at HDFC Bank, at Zirakpur. Thus, there is no material available to at least prima facie assume that Smt. Mohinder Kaur had not recovered or was not mentally alert. Smt. Mohinder Kaur, thereafter, remained alive for more than 3 years and 5 months, thereafter.

As regards, second part of the allegations made by the first informant that the amount deposited in the joint account has been siphoned off is neither factually correct nor any offence is made out. Once, Smt. Mohinder Kaur had opened a joint account with Inderjit Kaur, petitioner no.2 and transferred the amount from HDFC Bank to Punjab National Bank by authorizing her to operate that account, no criminal offence on the part of petitioner no.2 cannot be assumed for withdrawing any amount, although, not established particularly when she was authorized to withdraw.

Now let us examine the alleged offence as is sought to be made out by the first informant. First part of the offence is under Section 420 IPC, which is based on cheating and dishonestly inducing delivery of property. Cheating has been defined in Section 415 IPC. So "*sine-qua-non*" for initiation of criminal prosecution is cheating as defined in Section 415, which is extracted as under:-

> ***415. Cheating***.*—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in*

body, mind, reputation or property, is said to "cheat"

From the phraseology used in Section 415 IPC it is apparent that the offence as alleged by the first informant is not made out against petitioners. Late Smt. Mohinder Kaur never complained that she has been cheated by the petitioners, although, she remained alive for more than 3 years thereafter. The petitioners and their family claim property right to her on the basis of registered Will.

Next part of the offence is with regard to punishment for forgery under Section 465 IPC. Forgery has been defined in Section 463 IPC , which is extracted as under:-

> ***463. Forgery****.—Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.*

On careful perusal of Section 463 IPC, it is plain that petitioners are not alleged to have made any false document or false electronic record or part of the record or electronic record with intent to cause damage/injury to the public or to any person or to support any claim or title or to cause any person to part with the property or to enter into any express or implied contract.

Similarly, other provisions invoked are offences under Sections 467/468/471 IPC, which are extracted as under:-

> ***"467. Forgery of valuable security, will, etc****.—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable*

> *security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*
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> ***468. Forgery for purpose of cheating**.—Whoever commits forgery, intending that the 1[document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*
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> ***471. Using as genuine a forged document or electronic record**].—Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record."*

From the reading of the aforesaid provisions, it may be noted that offences as alleged in FIR under Section 467/468/471 IPC are also not made out against the petitioners.

Now let us examine the case from another angle. In the present case, first informant claims right to the property left by Smt. Mohinder Kaur on the basis of testamentary documents dated 26.11.2001, codicil dated 14.06.2005 and a subsequent Will. In the civil suit filed, the Civil Court has already held that Maninder Grewal and Rajbir Grewal have failed to prove the testamentary disposition in their favour by Smt. Mohinder Kaur. Subsequent registered Will dated 15.01.2009 allegedly executed by late Smt. Mohinder Kaur is in favour of the petitioners which also has her photograph pasted thereon. In the aforesaid testamentary disposition she has got written that Grewal family had committed willful breach of faith and trust with her and they had been acting against her interest. Mr. R.S Grewal had also siphoned amount from her bank account. Smt. Mohinder Kaur being upset with respondent no.2 and his family revoked previously executed testamentary dispositions.

In view of the aforesaid, the basic dispute between the parties is now with regard to their respective entitlement to the property left behind by late Smt. Mohinder Kaur. As noticed, one civil suit filed by Maninder Kaur and Rajbir Grewal stands dismissed and second suit filed by them in the Civil Court for amount lying in the bank is pending at final stage.

The scope of jurisdiction of the High Court under Section 482 Cr.P.C., Hon'ble Supreme Court in the case of ***State of Haryana and others vs. Bhajan Lal and others, 1992 (Supplement)1 SCC 335*** has laid down certain guidelines, which are extracted as under:-

> "102. *In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulate and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;*

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

Recently once again Hon'ble Supreme Curt in the case of ***Professor R.K.Vijayasarathy and another vs. Sudha Seetharam and another*** (Crl. Appeal No.238 of 2019, decided on 15.02.2019), have held that in exercise of its jurisdiction under Section 482 Cr.P.C., the Court is required to examine as to whether the averments in the complaint constitute the necessary ingredients for the offence alleged and fulfill all of its necessary ingredients. As noticed even bare reading of the averments in the FIR, no criminal offence is made out against the petitioners.

Before parting two other issues require some discussion.

Fist is "Forum Shopping". In the present case, respondent no.2 and his family members have indulged in "Forum Shopping". On the similar allegations, first complaint was addressed to the police at SAS Nagar, Mohali, on 04.10.2012. The Police on conclusion of the investigation after getting an opinion of Deputy District Attorney (legal) that the dispute is of civil nature and such suit is already pending in the court of Civil Judge, Chandigarh, filed the complaint on approval of the Senior Superintendent of Police. Thereafter, respondent no.2 and his family members lodged a similar complaint with Senior Superintendent of Police, Chandigarh, which was again duly enquired into by the Economic Offences Wing while associating all the bank officials in the enquiry. The Chandigarh Police also found that since the dispute is pending before the civil court which is primarily a civil dispute, hence, case for initiation of criminal prosecution is not made out.

Respondent no.2 and his family members thereafter, filed a criminal complaint in the Court of Sub Divisional Judicial Magistrate, Dera

Bassi, SAS Nagar Mohali. The Judicial Magistrate after perusing the complaint along with documents attached thereto as also after examining the report submitted by the Station House Officer, concluded that no case is made out for directing the police to register FIR. However, respondent no.2 was directed to lead evidence for trying the same as a criminal complaint. Respondent no.2, thereafter, filed a revision before the Court of Sessions which was allowed and the case was remanded back. Immediately after the order was passed by the Court of Sessions, respondent no.2 managed to get the FIR registered on 03.05.2018, although there was no direction by the Court of Sessions. Further, wife and son of respondent no.2 had also filed a civil suit at Dera Bassi, which of course has already been dismissed, and filed anoter suit for recovery of the amount and for declaration that their family is entitled to the amount by filing a civil suit at Chandigarh which is stated to be pending. Still further some civil suits are also pending at Dehradun. Thus, it is apparent that respondent no.2 has simultaneously invoked the jurisdiction of various courts/forums to involve the petitioners and their family members in the litigation. Such course adopted by respondent no.2 is not appreciable. The courts in the country are already flooded with the litigations and such multifarious litigations being filed by the parties should be deprecated.

Next issue which has been very strenuously pressed by learned senior counsel appearing for respondent no.2 is with regard to violation of the Act of 1999. It may be mentioned here that attention of this court has not been drawn to any provision which makes violation of a particular provision of the Act of 1999 to be a criminal offence of the nature alleged. In this regard, it is noticed that the provisions of aforesaid Act operates in a different field and would not give rise to a criminal offence as is sought to be made out by learned senior counsel. All actions which are done in violation of a statutory provision may be illegal, void, voidable or void ab-initio but does not necessarily give rise to a criminal offence.

In view thereof, present petition is allowed and FIR No.148 dated 03.05.2018, registered under Sections 420/465/467/468/471/120-B IPC, at Police Station Zirakpur, District SAS Nagar, Mohali and all the consequential proceeding arising therefrom are quashed.

04th December, 2019 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No