

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-42038 of 2014 (O&M)

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Date of decision:23.01.2019

Satya Parkash and others

...Petitioners

v.

Narender

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vikas Kumar, Advocate for the petitioners.

Mr. Nitin Jain, Advocate for the respondent.

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Inderjit Singh, J.

This criminal miscellaneous petition has been filed under Section 482 Cr.P.C. for quashing of criminal complaint No.275/21.02.2011/01.07.2013 titled as “Narender vs. Satya Parkash and others” (Annexure-P.1) pending in the Court of Judicial Magistrate Ist Class, Faridabad and the summoning order dated 23.08.2014 (Annexure-P2) passed by the learned Juducial Magistrate Ist Class, Faridabad.

Notice of motion was issued in this case.

Mr. Nitin Jain, learned Advocate has appeared on behalf of the respondent and contested this petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Narender-complainant son of Dharampal filed the complaint against Satya Parkash, Yogender, Parvinder and Ashok, accused Nos.2 to 4 all sons of accused No.1 Satya Parkash, for the offences under Sections 420, 406, 467, 468, 471 and 120-B IPC. The brief facts of the case are that the complainant along with Yoginder son of Dharampal, Dharampal son of Chuther Singh are absolute owners and in possession of plot measuring 390 sq. yards as mentioned in the complaint. Previously, Smt. Sunita wife of Ravinder Yadav, who was sister-in-law of Yoginder and the complainant and sister-in-law of Dharampal, was absolute owner and in possession of the aforementioned property. Smt. Sunita was wife of Ravinder Yadav son of Dharampal. The said property was purchased out of a Joint Hindu funds in the name of Smt. Sunita vide registered sale deed bearing No.19061 dated 27.2.2006 duly registered in the office of Sub Registrar, Faridabad. Smt. Sunita expired issueless on 13.9.2008 and her husband Ravinder Yadav had pre-deceased her on 17.3.2005, who was the real brother of the complainant. After the death of Smt. Sunita and as per Hindu Succession Act, the property is reverted to the complainant, Yogender and Dharampal and, therefore, the complainant, Yogender and Dharampal approached the revenue officials and after verification and ascertaining the said fact, mutation of inheritance has already been sanctioned in favour of the complainant, Yogender and Dharampal on 26.1.2010 and the names of the complainant and Yogender have also been incorporated in place of Smt. Sunita. After coming to know the death of Smt. Sunita, all the accused hatched a criminal conspiracy among themselves and in order to achieve their common object, all the

accused with common intention and in order to cause wrongful loss to the complainant and to cause wrongful gain to themselves and in order to usurp the property, which belongs to the complainant, had filed Civil Suit No.953 dated 3.10.2008 by concocting and fabricating a false story and declaring themselves to be the legal heirs/legal representatives and entitled to the said property, which was decided by the Permanent Lok Adalat on 23.12.2008 in favour of accused No.1, by intentionally concealing the facts and illegally got transferred the said property against the Hindu Succession Act. Whereas the accused were fully aware that the property in question is exclusively belongs to the complainant and other owners. The accused got lodged FIR No.199 dated 27.8.2009 at Police Station Kapashera against the complainant and his brother Yoginder for the offences under Section 307 IPC and Arms Act and the complainant and his brother Yoginder have been acquitted. After coming to know the illegal acts committed by the accused and in furtherance of their common intention, the complainant filed Civil Suit No.546 dated 24.12.2010 titled "Narender and others Vs. Satya Parkash", which is now pending in the Court of Civil Judge (Junior Division), Faridabad and the Civil Judge (Junior Division) has also passed the interim order.

After going through the record and after hearing learned counsel for the parties, I find that complainant-Narender is son of Dharampal. Smt. Sunita was the wife of Narender's brother Ravinder Yadav son of Dharampal. Ravinder Yadav had pre-deceased Sunita and Sunita was the owner of the property in question on the basis of sale deed. It is admitted fact that Sunita was the exclusive owner of the property on the

basis of sale deed. Sunita had died issueless. A perusal of the record shows that there was a matrimonial dispute between the parties. Earlier FIR No.23 dated 14.1.2007 had been got registered for the offences under Sections 498-A, 341 and 323 IPC against the complainant party. Ravinder Yadav died on 17.3.2005 whereas Sunita had died on 13.9.2008. The sale deed has been executed on 27.2.2006 after the death of Ravinder Yadav in the name of Sunita.

Learned counsel for the petitioners argued that the sale deed had been executed at Faridabad which is the home town of accused No.1 Satya Parkash-father of Smt. Sunita. As Satya Parkash-father of Sunita was a resident of Faridabad at the time of sale deed none of the complainant side was present. Learned counsel for the petitioners argued that this sale deed was not got executed from the Joint Hindu funds, rather, it was by the father of Sunita in her name to secure her future after the death of her husband. Both the parties admitted that civil litigation is pending in RSA before this Court where the question of validity of the decree will be seen and further as regards criminal case under Section 302 IPC regarding the death of Sunita is still pending before the Hon'ble Supreme Court, which means the matter is sub judice. At this stage, keeping in view the facts and circumstances of the case, I find that the filing of this complaint is nothing but an abuse of the process of law and amounts to miscarriage of justice. As the Courts are still seized of the matter regarding the validity of the decree, therefore, no ground is made out for filing the criminal complaint by saying that this decree has been passed by the Court wrongly. It is still to be decided finally by the Courts as to whether the decree is valid or not valid.

Otherwise also, the dispute between the parties is regarding the inheritance of Sunita, which is of civil nature and is to be decided by the civil Court. Therefore, this criminal complaint has been filed only to harass the accused-petitioners.

Therefore, finding merit in this petition, the same is allowed. Criminal complaint No.275/21.02.2011/01.07.2013 titled as “Narender vs. Satya Parkash and others” (Annexure-P.1) pending in the Court of Judicial Magistrate Ist Class, Faridabad; the summoning order dated 23.08.2014 (Annexure-P.2) passed by the learned Judicial Magistrate Ist Class, Faridabad and all other subsequent and consequential proceedings arising therefrom shall stand quashed.

January 23, 2019.

(Inderjit Singh)
Judge

hsp

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