

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

**CRM-M-19929-2017
Date of decision:-5.2.2020**

Mohinder Lal and others

...Petitioners

Versus

State of Punjab and another

...Respondents

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

Present : Mr.Parminder Singh-1, Advocate
for the petitioners.

Rana Harjasdeep Singh, DAG, Punjab.

H.S. MADAAN, J.

Briefly stated, the facts of the case are that complainant – Manmohan Singh son of late Sh.Gurdial Singh Bhatia, resident of House No.13, T.V. Tower Enclave, Jalandhar, now resident of England, U.K. then at Jalandhar had submitted a written complaint to the police contending therein that his father Sh.Gurdial Singh Bhatia had expired on 9.3.1998; that Sh.Gurdial Singh Bhatia had visited India on 15.9.1990 returning to England on April 23rd, 1995; he was not keeping good health and was getting treatment from a hospital; Sh.Gurdial Singh Bhatia had another son by the name of Harbans Singh and Sukhdev Singh is son of said Harbans Singh; Harbans Singh has been residing in England; Sukhdev Singh being fully aware of the fact that Gurdial Singh Bhatia was not in India on 14.3.1996 in connivance with Khushi Ram and Bachan Singh etc. prepared a false, forged and

fabricated general power of attorney dated 14.3.1996; when Gurdial Singh Bhatia was in hospital, the attorney was prepared on 14.3.1996 and was presented for registration before Sub-Registrar, Jalandhar; on its basis sale deed No.6556/1 for a sum of Rs.2,46,000/- in favour of Bishamber Chahal was executed; Mohinder Lal had appeared on behalf of the purchaser; the sale deed was signed by Sukhdev Bhatia in presence of Mohinder Lal and Sodhi Ram and duly witnessed by Acharaj Lal Bali as Lambardar; it was scribed by Jasbir Singh, Deed Writer. According to the complainant this was so done by accused to cause wrongful loss to him since his father had executed the will in his favour. He submitted that his father had expired on 9.3.1998 and after his death the property belongs to him. Therefore, necessary action be taken.

Accordingly formal FIR No.95 dated 4.5.2003, under Sections 420, 467, 468, 471, 447, 120-B IPC was registered at Police Station Division No.4, Jalandhar.

Mohinder Lal, Sodhi Ram and Dharminder Singh, who are accused in the said FIR have approached this Court by way of filing a petition under Section 482 Cr.P.C. seeking quashing of the FIR alleging that it is an abuse of process of law in view of the judgment and decree dated 22.12.2007 passed by Civil Judge(Jr.Divn.), Jalandhar as well as judgment and decree dated 19.10.2010 passed by Additional District Judge, Jalandhar. The petitioners further pray for quashing of order dated 22.12.2016 passed by Chief Judicial Magistrate, Jalandhar vide which the cancellation report was rejected and the police was directed to reinvestigate the matter.

Notice of the petition was given to respondents. Respondent No.1 – State appeared through State counsel, whereas respondent No.2 had not appeared despite service.

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

The main thrust of arguments advanced by learned counsel for the petitioners/accused was that the allegations levelled in the FIR were false. Sukhdev Singh was duly appointed attorney by Gurdial Singh Bhatia and he had executed a legal and valid sale deed, which has been held to be so by the Court of Civil Judge (Jr.Divn.), Jalandhar and the Appellate Court also. Therefore, the continuation of the FIR is working as a tool of harassment to the petitioners and it should be quashed.

Whereas, learned State counsel has submitted that earlier on completion of investigation, a cancellation report was prepared and filed in the Court of Illaqa Magistrate but the same was not accepted and the police was directed to hold further investigation. The needful has been done and again the cancellation report has been prepared and filed in the Court.

After hearing learned counsel for the petitioners and learned State counsel besides going through the record, I find that though Manmohan Singh Bhatia complainant in the FIR had filed a civil suit on the assertions identical to the allegations in the FIR seeking declaration that he is owner of the house in question on the basis of Will dated 24.2.1996 executed by his father Gurdial Singh Bhatia in his his favour and that sale deed dated 20.8.1996 executed by Sukhdev Singh Bhatia in favour of Bishamber Chahal regarding that very house is illegal, null and void, result of fraud on the basis of forged general power of attorney; however, the trial Court after allowing parties to lead evidence observed that PW1 Sarwan Dass attorney of the plaintiff in his affidavit had though deposed on lines of the case of the plaintiff, however, his cross-examination was deferred. He had appeared in the Court and made a statement that he had entered into compromise on behalf of the plaintiff admitting admitting power of attorney dated 14.3.1996 in favour of defendant No.1 Ex.P10 on the basis of which sale deed dated 20.8.1996 had been executed as legal and valid stating that plaintiff would not

dispute the ownership of the property in dispute in future and he made a statement to the extent of dismissal of the suit against defendant No.2 qua the suit property. Therefore, issue No.3 struck by the trial Court to the effect *“Whether the sale deed dated 20.8.1996 executed by defendants No.1 as attorney of Gurdial Singh Bhatia in favour of defendant No.2 is illegal, null and void? OPP.”* was decided in favour of the defendants and against the plaintiff. Vide judgment dated 22.12.2007 by Civil Judge (Jr.Divn.), Jalandhar, such suit filed by the plaintiff had been dismissed. Though appeal against the said judgment had been preferred by the plaintiff through his attorney before District Judge, Jalandhar, which was assigned to Additional District Judge, Jalandhar. However, that appeal was dismissed by learned Additional District Judge, Jalandhar vide judgment dated 19.10.2010 and the judgment and decree passed by the trial Court were affirmed. The investigating agency on carrying out investigation did not find any merit in the allegations levelled in the FIR and had prepared a cancellation report. Though learned Chief Judicial Magistrate, Jalandhar had called for detailed report concerning status of the case from the local police, in response thereto local police had submitted report, copy Annexure P-5 that on account of complainant not contacting the investigating agency cancellation report could not be produced in the Court. Again cancellation report is said to have been prepared, that means the police has not found the allegations levelled in the FIR to be truthful and creditable and could not collect enough evidence warranting the accused to stand trial. The matter is dragging on simply for the reason that complainant, who is a non-resident Indian is keeping away so as to give his consent to the cancellation of the FIR.

Under the circumstances of the case the matter cannot be allowed to remain pending for such like reasons. Keeping in view the totality of the circumstances, the petition is allowed and FIR along with ancillary

proceedings is ordered to be quashed.

5.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No