

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13565-2008 (O&M)
DECIDED ON: 31st AUGUST, 2022

PRITPAL SINGH GREWAL

.....PETITIONER

VERSUS

GURLAL SINGH GREWAL AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Baljeet Kaur Mann, Sr. Advocate with
Mr. Anmol Partap Singh Mann, Advocate
for the petitioner.

Mr. A.S. Narang, Advocate
for respondent No.1.

Mr. Shubham Kaushik, AAG, Punjab.

SANDEEP MOUDGIL, J

This petition under Section 482 Cr.P.C. has been preferred for quashing of criminal complaint No. 19/1, dated 13.06.2007, titled as Gurlal Singh Grewal vs. Pritpal Singh Grewal, under Sections 418, 420, 467, 468 IPC (Annexure P-1) along-with all subsequent proceedings arising therefrom including the summoning order dated 06.02.2008 (Annexure P-6) passed by learned Additional Chief Judicial Magistrate, Ludhiana, whereby the petitioner has been summoned to face trial under Section 420 IPC.

As per the complaint, the factual matrix of the case is that Mata Gurmail Kaur Charitable Trust (Regd.), Ludhiana (hereinafter referred to as 'Trust') was constituted in the year 1989 with regard to the

land owned by Sant Prasad Singh Grewal (younger brother of the petitioner) measuring 37 Kanals – 10 Marlas, being 1/4th share out of the total area of land measuring 150 Kanals, comprised in Khasra No. 16//21/2, 22, 25/3, R-31//1/2, 6,7,14, 15//24/2, 23, 31//23, 4,5,6,9, 10/1, 11/2, 12,13,15,16,17,18/1,18/2, 19, 20/1, Khata No. 904/985, 1424/1620, as per jamabandi for the year 1981-82, situated at Village Haibowal Kalan, Tehsil and District Ludhiana.

In the year 1971, Sant Prasad Singh Grewal had executed one General Power of Attorney in favour of Sarvshri Inder Mohan Singh Grewal and Pritpal Singh Grewal (accused), who were given the authority jointly and severally to act for and on behalf of Sant Prasad Singh Grewal with regard to the aforementioned property and all the acts, deeds and things done jointly and severally by them in regard to property were deemed to be done by Sant Parsad Singh Grewal.

Unfortunately, Inder Mohan Grewal died and thereafter, a registered General Power of Attorney was again executed solely in the name of Pritpal Singh Grewal. Thus, petitioner Pritpal Singh Grewal, on behalf of Sant Prasad Singh Grewal, executed one Trust Deed dated 07.08.1999 by virtue of which the aforesaid land came under the control of the Trust, of which he became the sole Trustee and was to hold office for his lifetime or till he voluntarily resigned or otherwise ceased to be Trustee under the provisions of law.

Respondent No.1 came to know from the certified copy of Deed of Trust on 02.03.2007 that Pritpal Singh Grewal was appointed as a Sole Trustee and was to hold the office for his lifetime or till he voluntarily resigns or otherwise ceases to be trustee of the above said Trust. For

reference relevant extract of Trust Deed are as follows:-

III Trustees and their duties:

(2) Sardar Gurlal Singh Grewal, Engineer, the elder brother of founder shall be the sole trustee of the Trust. Sardar Gurlal Singh shall hold this office for his life or till he voluntarily resigns or otherwise ceases to be trustee of this Trust under the provisions of Law.

(3) After Gurlal Singh Grewal as the sole trustee of this Trust, his elder brother S. Pritpal Singh shall be the sole trustee of this Trust and hold this office for his life or till he voluntarily resigns or ceases to be trustee under the provisions of the law.

(4) After Sardar Pritpal Singh, his place shall be taken by three trustees appointed in writing by Sardar Pritpal Singh. Each of the three trustees shall hold the office as a trustee for his/her life or till he/she voluntarily resigns or otherwise ceases to be trustees under the provision of Law.

(5) Any vacancy in the office or any one of the three trustees of this Trust shall be filled up by the remaining two trustees by appointing with their joint consent any person male or female eligible for the appointment. In the event of the failure of the remaining two trustees to appoint a trustee with their unanimous consent, each one of the two remaining trustees shall propose one name each and after ARDAS before HOLY GURU GRANTH SAHIB, a lot shall be drawn and the persons so selected by this process shall be deemed to have been appointed as joint trustee of this Trust.

On 22.11.1989, the petitioner opened a bank account with the Punjab National Bank, Civil Lines, Ludhiana on behalf of the Mata Gurmail Kaur Charitable Trust as the sole trustee by enclosing copy of Trust Deed and other relevant documents. It is alleged that the petitioner

received several monetary gains and other benefits and filed various documents with the Income Tax Department where he fraudulently represented himself as the sole trustee of the above said Trust without showing the trust deed to the complainant-Gurlal Singh Grewal. The intention of the petitioner was to cheat and defraud the Trust and respondent No.1/complainant.

The complainant further alleged that he approached the Police also but no action was taken. He had also filed a civil suit for Permanent Injunction restraining the present petitioner from acting as Trustee of Trust titled as "Gurlal Singh Grewal v Mata Gurmail Kaur Charitable Trust and Others". As a result, the civil suit was decided by Ld. Civil Judge (Jr. Division), Ludhiana on 28.01.2020 whereby the suit of the present respondent-plaintiff was dismissed with costs on the aspect of maintainability and merits.

Mrs. Baljeet Kaur Mann, learned Senior counsel for the petitioner contends that the petitioner has been falsely implicated in the afore-said complaint on the basis of false, frivolous and baseless allegations by respondent No.1 just to humiliate and harass him on account of differences cropped up within the family. She has drawn the attention of this Court to the chart drawn in para 3(c) of the petition to show that the petitioner is a trustee in all the charitable trusts founded by the various family members and the petitioner is the sole trustee of the Trust named above and this fact was very much in the knowledge of respondent No.1/complainant since its inception. Her assertion is that respondent No.1/complainant and all his family members have been acknowledging

the petitioner as the trustee of the Trust in question. It is also submitted on

behalf of the petitioner that respondent No.1/complainant was accepting the petitioner as a sole trustee and his wife Ranjit Kaur was deriving all benefits from the Trust in question.

Learned Senior Counsel for the petitioner points out that the petitioner in order to honour respondent No.1/complainant-Gurlal Singh Grewal put his name as the first sole trustee but respondent No.1/complainant never accepted the trusteeship as he was busy in looking after the unit of Upper India Steel Mfg. & Engg. Co. Ltd. situated in Tirupati, Andhra Pradesh. Besides this, he was conducting his own personal business of floriculture.

She has argued that rather it was respondent No-1/complainant who had requested the petitioner to act as the trustee as he was already acting as trustee in several other family trusts.

It is further asserted that Sant Parsad Singh Grewal had executed one power of attorney in the year 1971 in favour of Inder Mohan Grewal and the petitioner and after the demise of S. Inder Mohan Singh Grewal, a fresh power of attorney was executed in the year 1999 in favour of the petitioner. The case is also being built up with the submission that the founder of the trust in question had reposed full faith in petitioner with regard to its functioning and though the respondent No.1/complainant had wished to become the Managing Director of the company but the majority of the Directors were not inclined towards the respondent No.1/complainant. Mrs. Baljeet Kaur Mann, Advocate for the petitioner has also put stress to the fact that majority of shareholders appointed Gursimran Singh Grewal, the son of the petitioner as the Managing

Director on 10.01.2007, which caused bitterness in the mind of the respondent No.1/complainant who started interfering and disturbing the smooth functioning of the company and Trusts.

She further submitted that the accounts of the Trust were regularly used to be got audited and it is pertinent to note here that the respondent No.1/complainant had taken the trust land on 'Chakota' for the purpose of running his floriculture work in the name of his wife Ranjit Kaur, who used to pay 'Chakota' to the petitioner being a sole trustee. In the year 2006, the petitioner had stopped the firm of respondent No.1/complainant's wife from using the trust land for her floriculture work, which also annoyed the respondent No.1/complainant and even the regular income returns right from 1989-90 had been submitted to the Income Tax Authorities after getting the accounts duly audited as all the records of the Trust were used to be kept in the office of the company which was under the control of the respondent No.1/complainant and he was having access to the records at all times. Finally, it is prayed by the learned Senior Counsel for the petitioner that there is no question of cheating on the part of the petitioner and the complaint as well as summoning order are liable to be quashed.

To strengthen her contention, learned Senior Counsel for the petitioner has relied upon the following case laws:-

- (i) *State of Haryana and others vs. Ch. Bhajan Lal and others; 1991(1) RCR (Criminal) 383*
- (ii) *Hira Lal Hari Lal Bhagwati vs. CBI, New Delhi; (2003) 5 SCC 257;*
- (iii) *Prof. R.K. Vijayasathy & Another vs. Sudha Seetharam and another; 2019 (5) RCR (Criminal) 537;*
- (iv) *Sushil Sethi and another vs. State of Arunachal Pradesh*

and others; 2020 (3) SCC 240;

On the other hand learned counsel for the respondent No.1/complainant submits that the respondent No.1 never had any knowledge of the contents of the Trust Deed as it was never served upon him nor was ever made available to him. He further submits that the petitioner could not have nominated himself as the trustee as the document then would have become a self-serving document. He also submits that the wife of respondent No.1 never derived any benefit from the trust through the petitioner. The land was taken on lease against the lease amount, which was duly paid to the trust. Regarding the accounts of the trust, no question was ever being raised and the only question was that petitioner was required to render accounts relating to his personal act and conduct qua the affairs of the trust.

Heard learned counsels for the parties.

In the exercise of the extra-ordinary jurisdiction, the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given 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 channelized and inflexible guidelines myriad kinds of cases wherein such power should be exercised as has been held by the Honble Supreme Court in '*Hridaya Ranjan Pd. Verma & Ors. vs. State of Bihar and Anr.*', **2000(2) R.C.R. (Criminal) 484:-**

(a) *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;

(b) 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;

(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) 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.”

The fact that respondent No.1/complainant himself admitted that his wife took the land of the Trust on 'Chakota' basis, which clearly shows that respondent No.1/complainant was well aware of the fact that the petitioner was acting as a sole Trustee cannot be lost sight by this Court. It is highly unbelievable that the complainant did not know the factum of the trust deed especially when the petitioner and respondent No.1/complainant are living under the same roof and the deeds were lying in the registered office of the Trust.

Moreover, a perusal of statement of Bank Manager does not show the fulfilment of ingredients of offence of cheating as CW-1-Bank Manager has only stated that the petitioner had appended his signatures on the account opening form as a sole Trustee and that a copy of the Trust Deed was also submitted by the petitioner to the bank after attesting it as a sole Trustee. Moreover it is not the case of the complainant that the petitioner ever received monetary benefits for himself while acting as a Trustee. Statements of other witnesses from the Income Tax Department clearly show that the returns were regularly filed by the petitioner.

It is apposite to mention here that it is an admitted case of the respondent No.1/complainant that earlier a civil suit was filed which was dismissed vide order dated 28.01.2020 passed by learned Civil Judge (Jr. Division), Ludhiana on the aspects of maintainability and merits and against which an appeal is pending adjudication before learned Additional District Judge, Ludhiana meaning thereby, the complainant after losing before Civil Court, has moved this Criminal Complaint with an intention to give colour of criminal nature to a civil dispute. Filing of civil suit and

acceptance that he knew that dispute if any, is of civil in nature.

This Court is of the considered view after having discussion as made hereinabove and on examination of record on the case file that the perusal of complaint and the statements of witnesses do not show the commission of any cognizable offence as alleged against the petitioner. The allegations made in the complaint even if, taken on their face value and accepted in their entirety, must necessarily result in constituting a cognizable offence punishable in law and on this account alone, the complainant has failed.

There is no doubt that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection in the rarest of rare cases and the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the complaint. It is also to be borne in mind that extraordinary and inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice, however, at the same time, if the allegations do not constitute any offence as alleged and appear to be patently absurd and improbable, the Court should not hesitate to quash the complaint. The test is whether the allegations in the complaint disclose a criminal offence or not.

A careful reading of the relief sought in the civil suit dated 28.01.2020, with a comparative study of allegations made in the complaint dated 13.06.2007, it can be easily inferred after having very circumspect, cautious and careful approach that on examination of the complaint as a whole do not constitute any offence as alleged and appear to be patently

absurd and improbable. On a very minute examination, it is writ large on the facts alleged in the complaint that qua which civil remedy has already been sought by the complainant-respondent “it is civic profile” outways the “criminal outfit”.

After having given considerate thought to the facts and the case law, the present petition is allowed and criminal complaint No. 19/1 dated 13.06.2007, titled as 'Gurlal Singh Grewal vs. Pritpal Singh Grewal', under Section 418, 420, 467 and 468 IPC, pending in the Court of learned Additional Chief Judicial Magistrate, Ludhiana along-with summoning order dated 06.02.2008 passed by learned Additional Chief Judicial Magistrate, Ludhiana with all subsequent proceedings, is quashed qua the petitioner.

Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

31st AUGUST, 2022
sham

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>