

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

CRM-M-15403-2022 (O&M)
Date of Decision:- 9.5.2022

Dr. Suresh Bhardwaj

... Petitioner

Versus

Maha Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sandeep Arora, Advocate for the petitioner.

GURVINDER SINGH GILL, J.

1. The petitioner assails order dated 18.2.2022 passed by learned Additional Sessions Judge, Jalandhar (Annexure P-6) vide which a revision filed by the petitioner challenging order dated 6.10.2021 passed by the JMIC, Jalandhar has been dismissed.
2. A few facts necessary to notice are that a criminal complaint under Section 138 of the Negotiable Instruments Act was filed by respondent against the petitioner. During the pendency of the complaint, the complainant Maha Singh expired and consequently an application was moved for impleading his minor son Gagandeep as complainant's legal heir through his guardian Shri Niwas (brother of complainant Maha Singh). The accused-petitioner opposed the said application while taking a stand that Gagandeep (minor) is infact son of Shri Niwas and cannot be natural son of complainant Maha Singh. The accused asserted in his reply that infact complainant Maha Singh, during his cross-examination dated 10.5.2018 had admitted Gagandeep not to be his natural son and that since no authentic document

regarding adoption of Gagandeep by Maha Singh had been produced, said Gagandeep could not be permitted to be impleaded as legal representative (LR) of deceased and that Maha Singh had not left behind any legal representative/legal heir.

3. The aforesaid application was considered by learned JMIC, Jalandhar and upon perusal of the birth certificate of Gagandeep, copy of Aadhar Card of Gagandeep and his guardian Shri Niwas, accepted the application vide order dated 6.10.2021 (Annexure P-4). The said order dated 6.10.2021 (Annexure P-4) was challenged by the accused by way of filing a revision petition (Annexure P-5) before the Court of Sessions. However, the learned Additional Sessions Judge, Jalandhar dismissed the revision petition vide order dated 18.2.2022 (Annexure P-6) which has been impugned in the present revision petition.
4. The learned counsel for the petitioner has submitted that the trial Court as well as the revisional Court did not give due weightage to the fact that Maha Singh during the course of his cross-examination had himself admitted at one stage that he had adopted one child namely Gagan Kumar who was natural son of his brother Shri Niwas. It has been submitted that in view of such admission made by Maha Singh, it is apparent that the birth certificate produced by Gagandeep through his so called natural guardian Shri Niwas was a forged certificate and that since they had not approached this Court with clean hands, the application for impleading Gagandeep as a legal heir of Maha Singh deserves to be dismissed.
5. I have considered the aforesaid submissions.

6. It does appear that Maha Singh at some stage had stated that Gagandeep had been adopted by him who was infact the natural son of his younger brother Shri Niwas. However, at the same time, this Court finds that there is sufficient evidence to show that said Gagandeep was being treated as complainant's son in every respect. So much so, the Aadhar Card also shows him to be son of Maha Singh. In any case, the purpose of impleading LR of Maha Singh is only to continue the proceedings of the complaint. The provisions of Section 256 Cr.P.C. provide that a complainant can be represented by a pleader and that his presence in any case can also be dispensed with. Once Gagandeep is *prima facie* shown to be the son of deceased Maha Singh whether natural or adopted son and in any case he has been impleaded through his guardian Shri Niwas, who is none else but real brother of Maha Singh, this Court need not go into the question as to whether Gagandeep is natural or adopted son. Further, even the guardian of Gagandeep i.e. Shri Niwas is real brother of deceased. In any case, since the purpose of impleading LR is very limited i.e. for the purpose of pursuing the proceedings of the complaint, this Court does not find any ground for interfering with the impugned order i.e. order 6.10.2021 passed by the JMIC, Jalandhar or the order dated 18.2.2022 passed by learned Additional Sessions Judge, Jalandhar and the same are hereby upheld.
7. The revision petition is sans merit and is hereby dismissed.

9.5.2022

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(Gurvinder Singh Gill)
JudgeWhether speaking /reasoned
Whether ReportableYes / No
Yes / No