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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53972-2019
Date of Decision: 09.03.2022

Jatin Kumar

....Petitioner(s)

Versus

Shakuntla and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Arun Singal, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of order dated 14.11.2019 passed by the learned SDJM, Kharkhoda vide Annexure P-6 vide which the complaint of the petitioner under Section 156(3) Cr.P.C for directing the SHO, Police Station Kharkhoda to register a case under Sections 406, 420, 467, 468, 471, 506 and 120-B IPC was declined.

The learned counsel for the petitioner has submitted that vide Annexure P-6 the learned Sub Divisional Judicial Magistrate, Kharkhoda has passed an erroneous order declining to send the complaint under Section 156(3) Cr.P.C for investigation. He further submitted that it is a case where the petitioner when he was staying in a hostel, then his grand-mother

had executed a Will in favour of the petitioner but the same was with the Aunt of the petitioner who is respondent No.1 and after the death of the grand-mother, the property had devolved upon the legal heirs on the basis of natural succession without referring to the Will. He further submitted that in this way, the rights of the petitioner have been scuttled by wrong mutation in the favour of the natural heirs who were otherwise not entitled under the natural succession by way of non-testamentary succession. He further submitted that instead of disclosing the Will, respondent No.1 had destroyed the Will and made application for the mutation based upon natural succession and, therefore, it was a case of cheating and an FIR was required to be registered against the respondents.

I have heard the learned counsel for the petitioner.

As per the submissions made by the learned counsel for the petitioner himself the petitioner was staying in a hostel when according to him a registered Will was made by his grand-mother in which he was the beneficiary. Thereafter, the Aunt of the petitioner got the mutation sanctioned in her favour on the basis of natural succession being the legal heir without referring to the Will. Learned counsel for the petitioner has also submitted that a civil suit was also filed by the petitioner himself seeking a declaration on the basis of the Will and civil suit is still subjudice before the learned Civil Court. The learned Sub Divisional Judicial Magistrate, Kharkhoda vide Annexure P-6 observed that before deciding the question of legality and validity of the said Will, no complainant of such can be said to be entertained under Section 156 (3) Cr.P.C and, therefore, the request of the petitioner was declined. The complaint was registered and case was

adjourned for preliminary evidence but was not sent for investigation under Section 156 (3) Cr.P.C. This Court does not find any perversity or illegality in the order passed by the learned SDJM, Kharkhoda in view of the fact that civil suit pertaining to validity of natural succession and the Will itself is subjudice in a suit filed by the petitioner himself. The learned Magistrate has fixed the case for preliminary evidence of complainant/petitioner and, therefore, there is no perversity in the order passed by the learned Magistrate.

Therefore, finding no merit in the present petition, the same is hereby dismissed.

09.03.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)**JUDGE**

: Yes/No
: Yes/No