

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

Sr. No.103

CRM-M-1987-2023 (O&M)

Reserved on : 20.01.2023

Pronounced on: 24.01.2023

Sandeep

..... Petitioner

VERSUS

State of U.T. Chandigarh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Rohit Khullar, Advocate, for the petitioner.

Mr. A.M. Punchhi, Public Prosecutor, for U.T. Chandigarh.

Mr. Deepak Thapar, Advocate with
Mr. Vinod Kumar, Advocate, for respondent No.2.

SUDHIR MITTAL, J.

One retired Air Commodore Satinder Singh and his wife were residing in House No.69, Sector-11, Chandigarh. Their only son Paramjit Singh is residing in the United States of America and appears to an American Citizen. He was earlier married with Ekta Gyani and two children were born out of the wedlock. Relations became estranged between the couple, as a result of which, Ekta Gyani alongwith the children came to India and started residing with her parents. Allegedly, she initiated civil/criminal litigation against her husband as well as in-laws. During the course of the arguments, it has come to light that Paramjit Singh married once again and two children have born out of this wedlock also. Both, Air Commodore Satinder Singh as well as his wife,

namely, Minna Satinder Singh-respondent No.2 were aged persons, the husband being about 96 years of age at the time of his death and respondent No.2 being about 87 years of age. The said Air Commodore Satinder Singh died on 29.6.2021. At the time of his death and for some years before that he was suffering from Parkinson's disease, dementia, loss of hearing, poor eye sight and was practically crippled on account of his old age. Respondent No.2 also suffered from age related issues. During his life time, Air Commodore Satinder Singh had executed Will dated 19.6.2012 bequeathing his entire property in favour of respondent No.2. After his death, respondent No.2 submitted an application dated 23.8.2021 for transfer of house on basis of the said Will which was done vide order dated 30.12.2021 after due publication in the newspapers and following the procedure prescribed i.e. submission of affidavits by all the legal heirs and interested persons.

Since, it was Covid period, the son of the petitioner was not given permission immediately to travel. Permission was granted sometimes in August-September 2021, whereafter, he came to India on 17.9.2021. After a couple of months he left.

The petitioner alleges that his late grand-father was very friendly with deceased Air Commodore Satinder Singh and had introduced him in the year 2010. As the only son of the old couple was residing in the United States of America, he used to help them off and on, as a result of which, they developed a great liking for him which transformed into love and affection over a period of time. Not only did he buy their items of necessity, he also looked after their health and took

them to the hospital whenever required. Even though, the couple was old and infirm, their son Paramjit Singh refused to come to India and thus, their relationship deteriorated. In view of the close relationship of the petitioner with the old couple, they often told him that they wanted to gift the house to him. This fructified in execution of Will dated 2.12.2020 (Will in dispute) in his favour.

After Paramjit Singh left for United States of America, the petitioner sought transfer of the house in dispute in his favour on the basis of the aforesaid Will dated 2.12.2020, vide application dated 18.2.2022. Respondent No.2 allegedly executed affidavit dated 14.3.2022 certifying the validity of Will dated 2.12.2020 and that she had no objection to the transfer of the house in favour of the petitioner. The application was rejected on 6.4.2022 as the property already stood transferred in favour of respondent No.2. As soon as, she realized that an attempt had been made to transfer the property on the basis of Will dated 2.12.2020, she filed a police complaint dated 7.6.2022. Since, no action was taken thereupon, she approached a Magistrate under Section 156 (3) Cr.P.C. vide petition dated 3.8.2022 resulting in registration of the present FIR.

According to the contents of the FIR, the petitioner took undue advantage of his close relationship with the old couple and forged the Will dated 2.12.2022 apart from illegally withdrawing a sum of Rs.21 lacs from their accounts using ATM Card and cheques after forging signatures. Thus, the present petition for grant of anticipatory bail has been filed.

According to learned counsel for the petitioner, the petitioner used to look after the welfare of the old couple. Their relationship with the only son was strained as he wanted to sell the house and did not look after their welfare in their old age. On account of great love and affection for the petitioner, the deceased had executed Will dated 2.12.2020 in his favour. Money used to be withdrawn by the petitioner for their use and that the allegations of mis-appropriation and cheating are false. The son, namely, Paramjit Singh was aware of everything and was having a very friendly relationship with the petitioner as is evident from Whatsapp chats with him. Respondent No.2 had filed a civil suit for declaration against the petitioner and a cross-suit has been filed by the petitioner against her. The dispute regarding the Will is purely civil in nature. The Will dated 2.12.2020 as well as affidavit dated 14.3.2022 are in possession of the investigating agency and thus, no recovery is to be effected from the petitioner who is a prosperous businessman. He is suffering on account of his good nature and thus, he deserves the concession of anticipatory bail.

Learned Public Prosecutor for the Union Territory opposes the prayer. He submits that in the statement of respondent No.2 recorded under Section 161 Cr.P.C., she has categorically denied execution of affidavit dated 14.3.2022. In fact, there was no occasion for her to swear such an affidavit once the property had already been transferred in her favour. At point in time, she had already sworn an affidavit on the basis of Will dated 19.6.2012. The Whatsapp chats referred to learned counsel for the petitioner do not convey in any way that son-Paramjit Singh was aware of the execution of Will dated 2.12.2020 or that he approved of the

transfer of property in favour of the petitioner. Admittedly, the deceased was very unwell and required assistance even for his personal chores. Under the circumstances, he could not have been expected to execute another Will, especially one, which left nothing to the widow, son or grand-children. Vide the Will in dispute the entire property (moveable as well as immoveable property) has been bequeathed in favour of the petitioner and the same is not expected of a prudent man. If at all, he has done so, it was under influence of the petitioner as the deceased at that time was in no condition to understand his actions. The police has recovered an email sent by the son sometime in October-2020 appending a draft Will, wherein, he had suggested that Will dated 19.6.2012 be amended so as to include all his children as the beneficiaries. In Will dated 19.6.2012, the beneficiaries were, the widow, in case she pre-deceased the testator, the son and in the event of both of them pre-deceasing him, the grand-children from the first marriage. This draft has been converted verbatim to the Will in dispute. Considering the nature of the allegations made, custodial interrogation of the petitioner is essential as the role of other persons involved in the forgery needs to be unraveled. An imposter was produced at the time of registration of the Will which has been attested by two witnesses. Their role also has to be found out. The allegations are serious in nature and thus, the petitioner does not deserve the concession of anticipatory bail.

Learned counsel for the complainant-respondent No.2 has adopted all the arguments raised on behalf of the Union Territory. In addition, he has submitted that the sequence of events clearly shows that

civil suit was filed by the complainant only after the complaint before the police did not yield any results and during the pendency of the petition under Section 156 (3) Cr.P.C. Thus, it cannot be stated that the civil suit was filed only with the intention pressuring the petitioner. Complaint annexed as Annexure R-2/1 alongwith reply establishes that a resident of House No.139, Sector-11, Chandigarh had also filed a complaint of trespassing and theft against the petitioner and that address proofs manufactured by him showing himself to be resident of the said house were without her consent and were illegal. This conclusively shows that the petitioner has a criminal bent of mind. The address of the petitioner mentioned in the Will in dispute is House No.139, Sector-11, Chandigarh which in itself creates doubt and suggests that he was trying to usurp the said property as well. In fact, the petitioner is a resident of Sector-7, Chandigarh.

From the aforementioned submissions as well as from a perusal of this petition, it is evident that the petitioner is a resident of House No.66-A, Sector-7B, Chandigarh. It is also evident that late Air Commodore Satinder Singh was very weak and infirm for some years prior to his death and that respondent No.2 is also of advanced age and possesses all the infirmities associated therewith. There is also no doubt that the petitioner used to visit the old couple very frequently and used to look after them and provide assistance as required by them. Admittedly, the only son-Paramjit Singh of the old couple has been residing in United States of America for number of years. Execution of Will dated 19.6.2012 by the deceased is also not in dispute nor is it disputed that by

virtue thereof, the property was bequeathed in favour of the widow and in the event of her pre-deceasing, the testator, in favour of the son and in the event of both of them pre-deceasing him in favour of the grand-children, from first marriage. Will in dispute dated 2.12.2020 is on record and a perusal thereof shows that the entire property of the deceased has been bequeathed in favour of the petitioner inclusive of bank accounts, investments, lockers, FDs etc. He has been tasked to look after the widow and to perform her last rites after her death. Thus, the widow who lives alone in this country has been left without means and has been left at the mercy of the petitioner. The only son has also been dis-inherited as have the grand-children from both the marriages. The transfer of House No.69, Sector-11, Chandigarh in favour of respondent No.2 on 30.12.2021 is also admitted. Under the circumstances, it requires to be seen, whether, a person of prudent mind would have executed the Will in dispute? It is also to be seen, whether, the deceased was in a fit state of mind to understand the result/consequence of his actions on 2.12.2020?

The Whatsapp chats referred to by learned counsel for the petitioner are on record collectively as Annexure P-21 and they do not in any manner suggest that he was aware of Will dated 2.12.2020. They only show that the petitioner was looking after the welfare of the old couple and that their son was aware of this fact and was thankful for the same. A perusal of e-mail dated 24.8.2016 placed on record as Annexure P-22 also does not show that relations between the son and old couple were strained. It only suggests that there was a difference of opinion and perception regarding the house in dispute and that the son wanted the old

couple to come and settle in the United States of America, but his parents were not willing to do so.

The sequence of events discussed above also discloses that the petitioner did not produce the Will in dispute at the time of application by respondent No.2 for transfer of the house nor did he do so while the son was in India. His conduct is thus, rendered suspicious. Also, the execution of Will dated 2.12.2020 is more than doubtful. No person possessing a sound disposing mind and ordinary prudence would ever leave his widow to the mercy of someone who was not closely related. Whatever be the relationship of the petitioner with the deceased and his widow, it cannot supplant that with the son. Despite differences in opinion, a son does not lose his place in the heart of his father. Grand children are even more dear. All the facts aforesaid create serious doubt regarding the genuineness of the Will in dispute. If, the deceased did execute the Will dated 2.12.2020, in view of his health condition, he could not have understood the true impact of his actions having the petitioner open to a charge of misrepresentation which also portrays the petitioner as cunning and manipulative.

The allegations against the petitioner are serious in nature. The investigating agency is required to unravel the conspiracy and to find out the co-conspirators. Recovery of huge sum of money has also to be effected and thus, the petitioner does not deserve the concession of anticipatory bail.

The petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

24.01.2023
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes
Yes