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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-14842-2010 (O&M)

Reserved on : 22.2.2023.

Date of Decision: 19.5.2023

Sahib Singh and others

....Petitioners

VERSUS

State of Punjab and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by :

Mr. Amitabh Tiwari, Advocate and
Mr. Shivam Sharma, Advocate,
for the petitioners.

Mr. Hakam Singh, AAG, Punjab.

Mr. N.K.Nagar, Advocate,
for the complainant.

KARAMJIT SINGH, J.

The petitioners have filed the present petition under Section 482 of Cr.P.C. seeking quashing of FIR No.83 dated 30.7.2009 registered under Sections 416, 418, 420, 465, 467, 468, 471, 506, 120-B IPC at Police Station Rahon, District S.B.S. Nagar.

2. Brief facts of the case of prosecution are that complainant-respondent No.2/Gurwant Kaur daughter of Pishora Singh lodged complaint with the police alleging that her father Pishora Singh owned agricultural land in the area of Rahon; that Pishora Singh died intestate leaving behind his widow Iqbal Kaur and four daughters namely Narinder Kaur, Manjit Kaur,

Billo and complainant-Gurwant Kaur; that mutation of inheritance of Pishora Singh was wrongly entered in 1974 in favour of Iqbal Kaur, Narinder Kaur, Manjit Kaur and Billo while ignoring complainant-Gurwant Kaur; that thereafter, all the accused including the petitioners wrongly sold the land belonging to the complainant and some other lady impersonated as complainant Gurwant Kaur and the complainant never appeared before Sub Registrar concerned at the time of the sanctioning of mutation of inheritance of Pishora Singh and execution of alleged sale deeds. In this manner, the accused persons cheated and defrauded the complainant and when the complainant asked about her share in the land owned by Pishora Singh, they started extending threats to her and other members of her family.

3. Counsel for the petitioners has *inter alia* contended that Pishora Singh died in 1971 leaving behind his widow and four daughters and mutation of his inheritance was sanctioned in 1974. The complainant has never challenged the said mutation of inheritance of Pishora Singh which was sanctioned on the basis of natural succession. He has further contended that petitioner No.1-Sahib Singh got married with Manjit Kaur daughter of Pishora Singh in 1979 and petitioners No.2 and 3 who are sons of Sahib Singh and Manjit Kaur were born thereafter. He has further submitted that in light of the aforesaid factual matrix, the plea taken by the complainant that mutation of estate of Pishora Singh was fraudulently sanctioned at the instance of petitioners stands belied as they were not in the picture at that point of time.

4. Counsel for the petitioners has further contended that Kulwant Kaur daughter of Pishora Singh is also called by the name of Billo; that Kulwant Kaur @ Billo and Narinder Kaur daughters of Pishora Singh

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executed two general power of attorneys in favour of their sister Manjit Kaur vide Annexure P-3 dated 10.7.2000 and Annexure P-4 dated 5.6.2002 respectively. It has been further contended that on the basis of the aforementioned general power of attorneys, Manjit Kaur sold land belonging to her sisters Kulwant Kaur alias Billo and Narinder Kaur to petitioners No.2 and 3 vide registered sale deeds Annexures P-6 and P-7 both dated 5.9.2002. Counsel for the petitioners has further submitted that subsequently, petitioners No.2 and 3 further sold the said land to Varinder Kumar and others and the concerned sale deeds are Annexures P-8 to P-13; that there was no defect in the aforesaid power of attorneys and sale deeds and the same were never challenged by Kulwant Kaur @ Billo and Narinder Kaur.

5. Counsel for the petitioners has further contended that in order to challenge the aforesaid sale transactions and to claim 1/4th share out of the estate of Pishora Singh, the complainant filed civil suit in 2009. It has been further contended that in the said civil suit, the complainant has nowhere pleaded that the present petitioners committed any cheating or fraud with her; that rather petitioner No.1-Sahib Singh was not impleaded as a party to the aforesaid civil suit and copy of plaint is Annexure P-2. Counsel for the petitioners has further contended that the aforesaid civil suit was decided by the Court of Civil Judge (Junior Division), SBS Nagar vide judgment and decree dated 31.5.2017 whereby the suit of the complainant was decreed and she is held to be co-sharer in the land owned by Pishora Singh to the extent of 1/4th share and the decree has been upheld by the Court of Additional District Judge, SBS Nagar vide judgment dated 20.4.2022.

6. Counsel for the petitioners has further submitted that the share of the complainant out of the estate of Pishora Singh is lying intact and is

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subject to partition of the joint land and thus, the complainant has *prima facie* failed to establish that the petitioners got sanctioned mutation of inheritance of Pishora Singh by ignoring the complainant and thereafter, sold her land to different persons with malafide intention in order to deceive the complainant.

7. Counsel for the petitioners has further contended that the the alleged dispute is of civil nature and the Court of Civil Judge has already adjudicated the rights of the complainant over the land which was previously owned by her father Pishora Singh. In support of his contentions, counsel for the petitioners has referred to **Md Ibrahim and others v. State of Bihar and another**; 2009(4) RCR (Criminal) 369 wherein the accused sold the plot of another person claiming himself as owner and executed the sale deed and Hon'ble Supreme Court while dealing with the essential ingredients of offence of cheating and forgery quashed the FIR registered under Sections 420, 467, 471 and 504 IPC against the accused.

8. Counsel for the petitioners has further contended that even no offence under Section 506 IPC is made out against the petitioners on the basis of vague allegations made by the complainant. In this context, counsel for the petitioners has referred to **Surinder Suri v. State of Haryana and others**; 1996 (2) RCR (Criminal) 701 wherein this High Court quashed FIR registered under Section 506, 34 IPC against the accused persons.

9. Counsel for the petitioners has further contended that in the instant case, no complaint was ever lodged by the concerned revenue official seeking cancellation of mutation of estate of Pishora Singh on the basis of alleged impersonation, forgery and perjury. It has been further contended that in case any alleged forgery or impersonation was committed by the

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petitioners during proceedings of revenue Court, cognizance of such offence cannot be taken except on a complaint in writing of concerned Court or a superior Court as has been held by Hon'ble Apex Court in **M.S.Ahlawat v. State of Haryana** 1999 (4) RCR (Criminal) 718 and by this High Court in **Sardul Singh v. State of Haryana**; 1992 (3) RCR (Criminal) 545.

10. Counsel for the petitioners while summarising his contentions has argued that continuation of criminal proceedings against the petitioners on the basis of the impugned FIR will amount to abuse of the process of Court and the impugned FIR deserves to be quashed even to secure the ends of justice.

11. Present petition is resisted by the State counsel and the counsel for the complainant/respondent No.2.

12. Reply filed by way of affidavit of Dharam Singh Uppal, Superintendent of Police, Nawanshahr Sub Division, SBS Nagar was filed on behalf of the State. Even the complainant has also filed separate written reply.

13. Counsel for the complainant has *inter alia* contended that Hari Singh father of Pishora Singh and Amar Singh owned 67K-5M of land. After the death of Hari Singh, Pishora Singh inherited 33K-12.5M out of the total land owned by his father Hari Singh; that Pishora Singh died intestate leaving behind Iqbal Kaur (widow), complainant-Gurwant Kaur, Manjit Kaur, Narinder Kaur and Billo (daughters); that on death of Pishora Singh, his estate should have been mutated in the name of his aforesaid legal heirs in equal shares. However, while sanctioning mutation No.8454 with regard to estate of Pishora Singh, the name of the complainant was ignored and was wrongly written as Kulwant Kaur in a fraudulent manner and accordingly,

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the mutation was sanctioned in favour of Iqbal Kaur, Kulwant Kaur, Narinder Kaur and Manjit Kaur and Billo. It has been further contended that taking advantage of the said wrong and fraudulent entries in the revenue record, Manjit Kaur who is wife of petitioner No.1 and mother of petitioners No.2 and 3 connived with the other accused persons including the petitioners and transferred the share of the complainant in the land in dispute, in favour of petitioners No.2 and 3 under the guise of alleged power of attorneys executed in favour of Manjit Kaur by her two other sisters namely Kulwant Kaur and Narinder Kaur. It has been further contended that subsequently, petitioners No.2 and 3 further alienated the said land to different persons. It was further contended that the petitioners and Manjit Kaur were never authorised by the complainant to sell her land to any other person.

14. Counsel for the complainant has further argued that the aforesaid fraud and cheating committed by the petitioners is also established in a civil suit (Annexure P-2) filed by the complainant which was decreed in her favour vide decree dated 31.5.2017 passed by the Court of Civil Judge (Junior Division), SBS Nagar. It has been further contended that even the civil appeals filed against the said decree by aforesaid Manjit Kaur and petitioners No.2 and 3 and Billo have been dismissed by the first Appellate Court vide judgment dated 20.4.2022.

15. Counsel for the complainant has further contended that in the given circumstances, it stands *prima facie* established that accused-Manjit Kaur in collusion with petitioner No.1-Sahib Singh, alienated the land in dispute in favour of petitioners No.2 and 3 and they further sold the same to different persons in order to deceive the complainant. He has further contended that there are specific allegations that after the complainant came

to know about the aforesaid cheating and fraud, she approached the accused persons but they started extending threats to cause harm to her person and property; that in this manner, offence under Section 506 IPC is also made out against the accused persons.

16. Counsel for the complainant has further submitted that in the instant case, a bare reading of FIR discloses the commission of cognizable offences committed by the accused persons including the petitioners and that provisions of Sections 195 and 340 of Cr.P.C. are not attracted to the instant case. He has further argued that the petitioners should face trial along with other accused persons. So, prayer is made that the present petition be dismissed.

17. The facts emerging from the record indisputably shows that Pishora Singh died intestate in 1971 leaving behind his widow, Iqbal Kaur and 4 daughters namely complainant-Gurwant Kaur, Narinder Kaur, Manjit Kaur and Billo. Iqbal Kaur also died intestate. In this manner, the estate of Pishora Singh was to be succeeded by his daughters Gurwant Kaur, Narinder Kaur, Manjit Kaur and Billo to the extent of 1/4th share each. The mutation of inheritance of Pishora Singh was sanctioned in 1974.

18. It is settled law that mutation entry does not confer any right, title or interest in favour of a person and objective is only for fiscal purpose, as has been held by Hon'ble Supreme Court in **Balwant Singh vs. Daulat Singh (1997)7 SCC 137**.

19. In the instant case, plea of the complainant is that all the accused including the petitioners usurped her share out of estate of Pishora Singh, by getting sanctioned mutation of his inheritance, while ignoring the complainant and they committed cheating and fraud by hatching a

conspiracy. Admittedly the said mutation was sanctioned in 1974 regarding inheritance of Pishora Singh. It has not been disputed by the counsel for the complainant that Manjit Kaur daughter of Pishora Singh got married with petitioner No.1-Sahib Singh in 1979 and thereafter, petitioners No.2 and 3 were born out of said marriage. It is highly improbable that the petitioners committed alleged forgery and cheating and got sanctioned mutation of inheritance of Pishora Singh while ignoring right of complainant in the estate of Pishora Singh, as at that time Manjit Kaur had not entered into matrimonial alliance with petitioner No.1 as their marriage took place in 1979 and petitioners No.2 and 3 were born thereafter. All these things happened after about 5 years of the sanctioning of mutation of inheritance of Pishora Singh. Thus making it clear that the petitioners have nothing to do with the mutation of inheritance of Pishora Singh, which was sanctioned in 1974.

20. Further, it is case of the petitioners that actually Kulwant Kaur and Narinder Kaur daughters of Pishora Singh executed their power of attorneys in favour of Manjit Kaur daughter of Pishora Singh and Kulwant Kaur and Narinder Kaur through their attorney i.e. Manjit Kaur sold their share out of estate of Pishora Singh to petitioners No.2 and 3. Admittedly the aforesaid power of attorneys executed by Kulwant Kaur and Narinder Kaur in favour of Manjit Kaur and the sale deeds executed by Manjit Kaur being their attorney were never challenged by Kulwant Kaur and Narinder Kaur.

21. Admittedly complainant-Gurwant Kaur filed civil suit in 2009 to claim her 1/4th share in estate of Pishora Singh. The said suit was decreed on 31.5.2017 by the Court of Civil Judge (Junior Division), SBS Nagar and

the complainant is held to be co-owner in the land owned by Pishora Singh to the extent of 1/4th share and the appeals filed against the said judgment and decree are also decided by the Court Additional District Judge, SBS Nagar vide judgment dated 20.4.2022, wherein also it is upheld that the complainant is having 1/4th share in the estate of Pishora Singh. From the perusal of plaint (Annexure P-2) of the aforesaid civil suit, it is clear that petitioner No.1 was not impleaded as a party to aforesaid civil suit. Further in the said civil suit, no such allegations are made by the complainant (plaintiff therein) that petitioners in connivance with other accused persons wrongly got sanctioned mutation of inheritance of Pishora Singh, by ignoring right of the complainant in the estate of Pishora Singh or that the petitioners committed cheating and forgery to deprive the complainant of her legal right of 1/4th share in the estate of Pishora Singh. From the perusal of the aforesaid judgments passed by the Civil Courts, it is apparent that complainant is having 1/4th share in the land of Pishora Singh but the same will be subject to partition of the entire joint land. This further vindicates the defence taken by the petitioners.

22. The exposition of law on the subject relating to exercise of inherent power under Section 482 Cr.P.C. are well settled and as observed by the Hon'ble Supreme Court in State of Haryana and Ors. vs. Bhajan Lal, 1992 Suppl. (1) SCC 335, the High Court has got inherent power under Section 482 Cr.P.C. to quash the FIR. However, the inherent power is normally exercised when the allegations in FIR even if they are taken at their face value and accepted in entirety do not constitute the offence alleged or to prevent abuse of process of Court or to secure the ends of justice. Inherent power provided to the High Court under Section 482 Cr.P.C. is with the

purpose and object of advancement of justice.

23. Having gone through the impugned FIR, it cannot be said that the allegations in the FIR against the petitioners constitute offences under Sections 416, 418, 420, 465, 468 and 471 IPC. There is no material to indicate that the petitioners had any *mala fide* intention from the very beginning against the complainant to cheat her. So far as allegations in regard to commission of the offences of forgery are concerned, it is evident that the entire dispute emanates from sanctioning of mutation of inheritance of Pishora Singh. There is nothing available on the record to *prima facie* show that at the time of sanctioning of said mutation, petitioners forged or fabricated any documents. So the prosecution has failed to make out *prima facie* case under Sections 416, 418, 420, 465, 468 and 471 IPC. In the FIR, it has not been disclosed as to when and in whose presence the petitioners extended threats to the complainant to cause harm to her body and property. In the absence of any such specific allegations, even no offence under Section 506 IPC is made out against the petitioners. Further, neither the FIR nor the concerned record apparently indicates commission of offence of criminal conspiracy by the petitioners.

24. In view of the aforesaid discussion and the settled position of law, the present petition deserves to be allowed. In the result present petition is hereby allowed and FIR No.83 dated 30.7.2009 registered under Sections 416, 418, 420, 465, 467, 468, 471, 506, 120-B IPC at Police Station Rahon, District S.B.S. Nagar and all the subsequent proceedings arising thereof are quashed qua the present petitioners.

25. However, it is made clear that the observations made hereinabove are restricted to the present petitioners and the learned trial

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Court may not be influenced by the said observations and may proceed with the criminal case based on aforesaid FIR qua the other accused persons independently on its own merits, in accordance with law.

(KARAMJIT SINGH)
JUDGE

May 19, 2023
Paritosh Kumar/Gaurav Sorot

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No