

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22688-2010 (O&M)
RESERVED ON: 20th FEBRUARY, 2023
PRONOUNCED ON: 10.03.2023

GOPAL DASS & OTHERS

.....PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Karan Pathak, Advocate,
Mr. D.S. Khurana, Advocate and
Mr. Farhad Kohli, Advocate
for the petitioners.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

Mr. Prateek Gupta, Advocate with
Mr. Rahul Soi, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J

The jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') has been invoked seeking quashing of FIR No. 77, dated 23.06.2010, under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Radaur, District Yamunanagar (Annexure P-1) and all subsequent proceedings arising therefrom.

The factual matrix of the prosecution case unfolds with admitted facts reflecting the execution of Will way back on 14.04.1937 by

Banu Mal in favour of this daughter Munni Devi bequeathing the entire estate in her favour. Thereafter, the second Will came into being also executed by Banu Mal dated 27.03.1943 in favour of Raghubir Singh father of Devi Sarup giving only a life estate and also to treat Munni Devi as his daughter in the said Will and binding Raghubir Singh to pay an amount of Rs.100/- to Munni Devi for each harvest out of the income from the said property. The Will further consisted of the rights to be bequeathed of entire property to the legal heirs of Munni Devi, after the death of Raghubir Singh. On 26.02.1954, mutation No. 1427 was entered on the basis of one oral 'Hiba' allegedly made by Banu Mal @ Banu Ram in favour of Devi Sarup son of Raghubir Singh, Maya Devi wife of Devi Sarup and Kesho Devi wife of Raghubir Singh for a land measuring 835 kanals 7 marlas within the revenue estate of Village Rapri, District Yamuna Nagar. The said mutation was sanctioned on 02.03.1954. The pertinent aspect turning the whole the case came to light that Mutation Nos. 1422, 1423 dated 28.02.1954 show that the consolidation in the village Rapri commenced on 25.08.1952 and completed on 28.02.1954, which creates a doubt to the genuinity of mutation entered on 26.02.1954 and sanctioned on 02.03.1954. It is noted here that Devi Sarup and others raised claim of possession and ownership over the land in question on the basis of Mutation No. 1427, sanctioned on 02.03.1954.

Banu Mal died having left only one legal heir i.e. Munni Devi who breathed his last at Janoli Khera, Saharanpur (UP) on 14.11.1954 due to various ailments where he was confined to bed for quite a long time. It has also come on record that certain alienation were made by various other

persons as well over the land in question. Pawan Kumar Gupta son of Munni Devi preferred a Civil Suit on 11.10.1973 for permanent injunction restraining Raghubir Singh-defendant from alienating the suit property as was also stipulated in the 2nd Will dated 27.03.1943 urging that Raghubir Singh would hold the property as life estate without any power to alienate. The said suit was dismissed 11.10.1973, which was reversed by Lower Appellate Court vide its judgment and decree dated 24.02.1976 and RSA No. 586 of 1976, titled **“Raghubir Singh vs. Pawant Kumar”** was also dismissed by this Court vide order dated 01.06.1984 (Annexure P-2), holding that intention of testor Banu Mal is clear from the Will that he wanted to give his property to the children of his daughter-Munni Devi after the death of Raghubir Singh. It would not be out of place to mention here that in the said civil litigation the interpretation of Will dated 27.03.1943 was in question along-with *locus-standi* of the plaintiff to file the suit. While passing the judgment in RSA No. 586 of 1976, an oral Hibaba dated 26.02.1954 was made and on that basis this Court had declared the Will dated 27.03.1943 as life estate.

Thereafter, Veena Nirwani wife of S.K. Nirwani daughter of Munni Devi @ Jiwani as her legal heir and being grand-daughter of Banu Mal @ Banu Ram preferred a Civil Suit bearing No. 185 of 2019 for declaration with consequential relief of possession and permanent injunction challenging the Mutation No. 1427 dated .02.03.1954 alleging the same to be illegal, null and void and is an act of fraud and misrepresentation of facts and therefore ascertaining that it is not binding on the rights of Veena Nirwani and proforma respondents No. 5 to 9 as well.

The plaintiff therein, has also questioned the subsequent transfer, gift of the part of the suit land by defendants No.1 to 3 vide mutations and sale deeds as well as subsequent enteries in the revenue record on the strength of being legal heirs of Munni Devi (Annexure P-3).

The said suit was decreed vide judgment and decree dated 30.10.1996 declaring the subsequent sale deeds, mutations to be illegal, null and void and ineffective, inoperative or ultra vires and further holding that the same are not binding upon the plaintiff-Veena Nirwani, who happens to be the complainant in the present FIR as well.

Three appeals were preferred by defendants separately and during the pendency of those appeals before Ist Appellate Court, a compromise is alleged to have been entered into between Devi Sarup and Veena Nirwani and the same was filed in the afore-said civil suit but in the absence of Veena Nirwani and the respondents. The other two appeals were also disposed off in view of the said compromise.

Sneh Gupta another daughter of Munni Devi immediately on coming to know about the said fact alleging the same to be fraudulent at the behest of respondents-accused Nos. 1 to 4 and 33 moved an application for setting aside the said compromise wherein issues were framed vide order dated 29.05.2005 and finally the compromise dated 25.04.19098 was held to be illegal, null and void and was accordingly set aside.

All the three appeals were ordered to be restored at their original number, against which a revision petition bearing No. CR No. 6473 of 2005 was preferred before this Court. Aggrieved of the order passed in the said revision petition, Sneh Gupta has preferred SLP bearing Civil

