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

**CRM-M No. 23103 of 2022
Date of Decision :24.08.2023**

Kewal Singh

... Petitioner

Versus

Jatinderpal Singh & Others

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Navjot Singh, Advocate
for the petitioner.

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SANJIV BERRY, J.

Present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 25.01.2022 passed by the learned Additional Sessions Judge, Mansa (Annexure P-1), in Criminal Revision No. 6 of 2020, upholding the dismissal of complaint vide order dated 21.12.2019 of Additional Chief Judicial Magistrate, Mansa (Annexure P-2).

2. Brief facts of the case are that Kewal Singh-complainant, (present petitioner) filed a criminal complaint under Sections 420,467,468,471 and 120-B of IPC before the Court of Additional Chief Judicial Magistrate Mansa stating that Dalip Singh son of Hardit Singh resident of village Kulheri, his grandfather, was owner in possession of ½ share in land measuring 272 Kanals 03 marla as per sale deed dated 04.05.1972, situated in village Narinderpura, District Mansa.. He died in the year 1982 leaving behind his legal heirs i.e. widow Gurnam Kaur (wife),

two sons Gurcharan Singh and Darshan Singh and one daughter Nachhattar Kaur. Dalip Singh had never executed will in his life time. It is the case of the complainant that Jatinderpal Singh and Rupinderpal Singh who are totally strangers to the Dalip Singh had in collusion with other respondents prepared a forged and fabricated Will dated 29.11.1981 purportedly executed in their favour in respect of land in question. The said Will is bearing signatures but his grandfather was illiterate person and used to put thumb impression and never signed any document. On the contrary the will bears signatures. Had he executed any Will, the same would have been executed in favour of his wife and children. Complainant-petitioner moved a complaint to SSP Mansa but no action was taken on the ground that civil suit with regard to authenticity of Will is pending. Aggrieved Complainant/petitioner filed above said Criminal Complaint which was dismissed vide order dated 21.12.2019 Annexure (P-2) and revision of the same was also dismissed vide order dated 25.01.2022 (Annexure P-1). Agrgrieved from the aforesaid orders, petitioner filed quashing of orders impugned.

3. Heard.

4. Learned counsel for the petitioners, *inter alia* contends that neither the learned Judicial Magistrate nor the learned Additional Sessions Judge while exercising their powers have properly appreciated the facts and circumstances of the case and have wrongly dismissed the complaint. He submits that Jatinderpal Singh and Rupinderpal Singh had no relation with Dalip Singh and there was no occasion for Dalip Singh to execute the Will in their favour. Dalip Singh in his life time never appended his signatures on

any document, however forged Will bears his alleged signature which was not appended by Dalip Singh. He submitted that a case against the accused is made out for committing offence under Section 420 467, 468, 471 and 120-B of IPC, but this aspect has been ignored, hence he prayed for quashing of the aforesaid orders.

5. After considering the submissions made by learned counsel for the petitioner and the documents placed on record, it transpires that the case put forth by the petitioner is that his grandfather Dalip Singh happens to be owner and possession of the property and left behind his widow and two sons and one daughter. The petitioner happens to be son of Darshan Singh who is still alive.

6. It is the case of the petitioner in *nutshell* that Jatinderpal Singh Rupinderpal Singh who have got no relation with grandfather were proclaiming to be the owner of the property on the basis of will executed by his grandfather, which according to him is shrouded with suspicious circumstances.

7. Admittedly, the civil suit qua the aforesaid will is already pending in the civil Courts wherein the authenticity of the said will would be adjudicated. The petitioner had claimed the said will to be forged and fabricated document in the complaint filed by him and he himself steeped in as PW-3 and examined Bhajan Singh Nambardar as PW-1, Buta Singh Numberdar as PW-2 and both of whom had oral testimony that deceased was illiterate and used to put his thumb impression and that he had never signed. Strangely no document whatsoever has been placed on record to substantiate that deceased had never put his signatures on any document.

Even otherwise it is worth mentioning here and rightly pointed by learned Additional Sessions Judge while passing the impugned order dated 25.01.2022 that in the life time the class one heirs left by said Dalip Singh including his widow, two sons and a daughter, the petitioner is not even a class one heir whose rights have been jeopardized by the respondent No.1 and 2 proclaiming the above said will of Dalip Singh and interestingly even the father of the petitioner is also not stepped into witness box to support his case and for that matter none of the class one heir of Dalip Singh had entered their presence in the witness box. The petitioner has not been able to tell as to how he has got locustandi in the absence of any right of his being jeopardized in any manner. Moreover at the cost of repetition it is worth mentioning that the civil litigation to adjudicate the authenticity of the will is still going on and since from the evidence adduced by the petitioner in the complaint, no *prima facie* case stood made out against the respondents. The learned Magistrate has rightly dismissed the complaint and consequently the learned Additional Sessions Judge had rightly observed their being no case made out in favour of the petitioner for summoning of the accused while passing impugned order.

8. Having considered the impugned orders, no infirmity or illegality has been observed so as to call for any interference by this Court.

9. Resultantly, in view of the discussion made above, finding no merit in the petition the same is hereby dismissed.

(SANJIV BERRY)
JUDGE

24.08.2023

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i) Whether speaking/reasoned?

Yes/No

ii) Whether reportable?

Yes/No