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(262) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision : 21.03.2023

RAJWANT KAUR

... Petitioner

Versus

BALWINDER KAUR & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Upender Prashar, Advocate
for the petitioner.

Mr. Naresh Kaushik, Advocate
for respondent Nos.1, 2 and 5.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 15.02.2014 (Annexure P-2) passed by the Judicial Magistrate, 1st Class, Amritsar in complaint case No.70/2006 dated 07.08.2006 (Annexure P-1) under Section 419, 420, 465, 467, 468, 471, 120-B IPC, whereby the complaint of the petitioner has been dismissed and for quashing the order dated 06.01.2015 (Annexure P-3) passed by the Additional Sessions Judge, Amritsar, whereby the revision against the order dated 15.02.2014 has also been dismissed.

2. The brief facts of the case are that the complainant/petitioner-Rajwant Kaur filed the present complaint against the accused/respondents-Smt. Balwinder Kaur, Mohinder Singh

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Jagmohan Singh, Ravil Singh and Mukhtiar Singh under Sections 419, 420, 465, 467, 468, 471, 120-B of the Indian Penal Code on the allegations that her husband Sukhwinder Singh had died in Bahrain on 17.10.1996, when she was residing in her matrimonial house along with her newly born child. When the intimation regarding death of her husband was received telephonically on 17.10.1996, members of her in-laws family started making a conspiracy to grab the properties left behind by the deceased Sukhwinder Singh. In this attempt, accused/petitioner Balwinder Kaur, Mohinder Singh and Jagmohan Singh had initially got a frivolous power of attorney allegedly executed by Sukhwinder Singh in favour of Jagmohan Singh accused who got it embossed from the Commissioner's office, Jalandhar on 25.10.1996, thereby representing that Sukhwinder Singh was alive on the aforesaid date. Thereafter, on 26.10.1996 accused Jagmohan Singh had executed a sale deed of the properties left behind by deceased Sukhwinder Singh in favour of accused Balwinder Kaur despite having active knowledge that Sukhwinder Singh had in fact died on 17.10.1996. The dead body of Sukhwinder Singh had been collected by accused Balwinder Kaur and Mohinder Singh on 29.10.1998 from Indira Gandhi National Airport. After becoming aware of the frauds being committed by the accused persons, the complainant had got a criminal case vide FIR No.45 dated 19.04.1997 registered against the accused persons in Police Station Sultanwind, Amritsar and trial of the said case was pending before Shri P.S. Rai, the then Judicial Magistrate, 1st Class, Amritsar. However, during the course of recording of defence evidence in the aforesaid

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criminal case, the accused had produced one death certificate relating to Sukhwinder Singh, husband of complainant, showing that he died on 30.10.1996 at Amritsar and the aforesaid death information was got registered on 31.10.1996. This very certificate No.106066 was issued against receipt No.60149 dated 05.06.2006. She had immediately rushed to the Registrar of Births and Deaths at Municipal Corporation, Amritsar and was surprised to note that the accused persons by sharing a common intention had got a frivolous death certificate in regard to the death of Sukhwinder Singh prepared by wrongly stating his date of death to be 30.10.1996 and place of death to be Amritsar. Though, the accused persons were acquitted in the aforesaid trial only on the ground that the original power of attorney dated 25.10.1996 which was a forged one and which was in the custody of accused persons, could not be brought on record, however, the said judgment had not attained finality as a revision preferred by her against the aforesaid judgment was pending before the Court. The accused persons had intentionally, willingly and with fraudulent motive got prepared a false and fabricated death certificate and accordingly, they had committed various offences punishable under the Indian Penal Code. A prayer was made that the accused persons be summoned, tried and punished according to law.

3. In her preliminary evidence, the complainant herself stepped into the witness box as CW-1 and tendered a photocopy of the invitation card of her marriage with Sukhwinder Singh as Mark-A photocopy of the birth certificate of her son Jobanjit Singh as Mark-B, photocopy of a certificate issued by Ministry of Health, Directorate of Public Health,

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State of Bahrain as Mark-C, photocopy of a certificate issued by K.L. Arora, Attache (Labour) dated 28.10.1996 as Mark-D, photocopy of the medical notification of cause of death of Sukhwinder Singh as Mark-E, photocopy of a certificate issued by the Airport Health Officer, Delhi Airport (Palam) as Mark-F and photocopy of the death certificate of Sukhwinder Singh as Mark-G.

The complainant also examined her brother Kulwant Singh as CW-2, MCA/Sub Registrar Jatinder Kaur as CW-3 and Ranjit Singh as CW-4, CW-3 Jatinder Kaur had produced the record pertaining to the registration of death of Sukhwinder Singh and stated that as per record, the same is recorded against serial No.2190. The complainant also tendered on record the certified copy of the letter dated 26.05.1997 issued by Jagdish Parshad, Second Secretary (Cons) & Head of Chancery as EX.CX1, certified copy of a death certificate of Sukhwinder Singh submitted in Civil Suit Ex.CX2, certified copy of a death certificate issued by Local Registrar (Birth & Deaths) again Ex.CX, the certified copy of judgment and decree dated 25.10.2013 passed by the Court of Smt. Amandeep Kaur Chahal in Civil Suit No.15/99/12 titled as Rajwant Kaur and another Versus Balwinder Kaur and others as Ex.CX3 and Ex.CX4, certified copy of sale deeds dated 15.05.1997 and 13.07.1998 as Ex.CX5 and Ex.CX6, certified copy of an invitation card of her marriage with Sukhwinder Singh as Ex.CX7, certified copy of judgment dated 23.03.2006 passed in criminal case bearing No.231/20.09.1997/05 in criminal case titled as State Versus Jagmohan Singh and others as Ex.CX and CX8, a complaint moved by her before

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DSP, Tarn Taran as Ex.CX9. Thereafter, she closed her preliminary evidence vide her statement made in the Court on 14.01.2014.

4. Based on the evidence led, the complaint came to be dismissed vide order dated 15.02.2014 (Annexure P-1) passed by the Judicial Magistrate, 1st Class, Amritsar.

5. A revision petition was preferred by the complainant which also met the same fate vide order dated 06.01.2015 (Annexure P-3) passed by the Additional Sessions Judge, Amritsar.

6. The instant petition has been filed challenging the aforementioned orders.

7. The learned counsel for the petitioner submits that the Courts below have not properly appreciated the evidence on record and have wrongly dismissed the complaint which order has been affirmed. In fact, the offence of forgery had been established beyond doubt and the Certificate (Ex.CX) had been used as genuine in defence before the Trial Court in the State case. He therefore, contends that the orders be set aside and the respondents-accused be summoned to face trial for having committed the offences in question.

8. On the other hand, Mr. Naresh Kaushik, Advocate appearing on behalf of respondent Nos.1, 2 and 5 contends that no fault can be found in the impugned orders sought to be quashed by way of the present petition. The complainant had not been able to establish his case beyond reasonable doubt. In fact, even the State case has ended in acquittal. He therefore contends that the present petition ought to be dismissed.

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9. I have heard the learned counsel for the parties.

10. A perusal of the file would reveal that no evidence has been led to establish that the alleged forged Certificate (Ex.CX) had been prepared by the accused/respondents. Therefore, no *prima facie* case of cheating and forgery is made out.

Similarly, there was no evidence to suggest that the said Certificate (Ex.CX) issued on 05.06.2006 was used by the accused persons at the stage of defence during the course of the Trial.

Therefore, from the evidence led by the complainant it cannot be *prima facie* concluded that it was the accused persons who had prepared the allegedly forged and fabricated document Ex.C-6 issued on 05.10.2006 and had used the same as genuine. Thus, there is no *prima facie* evidence of the accused having committed the offences in question.

11. In view of the above, I find no cause to interfere in the well-reasoned judgments of the Magistrate and the Revisional Court. Therefore, the present petition is dismissed.

(JASJIT SINGH BEDI)
JUDGE

21.03.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No