

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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**CWP-14603-2017 (O&M).
Date of Decision: 11.01.2023.**

Shanti Devi and another

.. Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. S.S. Sahu, Advocate,
for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana.

None for respondents No.5 to 8.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been preferred by the petitioners for seeking issuance of an appropriate writ in the nature of Mandamus directing the respondents No.2 and 3 to constitute a Special Investigation Team to investigate the murder of son of the petitioners who is alleged to have been murdered by the private respondents to grab the property of the petitioners.

It is averred in the petition that the petitioners were having two sons namely Raj Kumar and Ranjit Singh and four daughters namely Sumitra, Kalawatil, Sarla and Kamla. Raj Kumar was a bachelor and had died before his marriage. Ranjit Singh got married with accused Sunita. Two sons namely Yogesh Kumar and Dinesh Kumar were born out of the said wedlock. Relations between deceased Ranjit Singh and his wife Sunita were strained and as a result she used to harass the petitioners as well as

their son Ranjit Singh for the land which stood in the name of petitioner No.2 i.e. Mohar Singh.

It is further alleged that owing to the persistent harassment, petitioner No. 2 got transferred 9 acres of land in favour of Sunita, however, she was not satisfied and continued to extend harassment to the petitioners. The petitioners alleged that they received a telephonic call on the intervening night of 20th/21st July, 2016 from a co-villager who informed that their son Ranjit Singh had committed suicide. The petitioners were, however, not allowed to participate in the last rites of their deceased son and thumb impressions of the petitioners were taken on transfer deeds of land in favour of their grandsons namely Yogesh Kumar and Dinesh Kumar by threatening them. After final rites (Rasam Pagri), Sunita along with her sons restrained the petitioners inside the house and threatened them not to report the incident to the police. The petitioners submit that thereafter they had approached the police authorities by means of submission of the complaint and had also filed a Civil Suit challenging the Release Deed and Will dated 21.07.2016 which is pending before the Civil Courts. The present petition was thereafter filed for seeking constitution of the Special Investigation Team to investigate the allegations leveled by the petitioners.

Written statement by Mr. Gurdial Singh, Deputy Superintendent of Police (City) Fatehabad dated 18.09.2017 had been filed. The relevant extract of the same reads as under:-

“1. That it is submitted that Mohar Singh/ petitioner No.2 has lodged the complaint dated 16-9-2017, 23-9-2016, 28-9-2016 (annexed as Annexure P-2), 13-10-2016 and 17-5-2017. The said complaints were enquired by ASI Mahender Singh 371/H

and SHO/Inspector Mukesh Kumar PS Bhattu Kalan. During the inquiry, the statements of petitioners as well as the respectable of the village were recorded to the effect that on account of death of their son Ranjit, they were mentally disturbed. Their son Ranjit died due to consuming of pesticide. They have willfully transferred the land measuring five Killa in the name of their grandson. They have made the complaint against the private respondents at the behest of someone and the same was not true. They do not want to pursue the complaints. On the basis of which and inquiry of ASI, SHO/Inspector Mukesh Kumar has verified that the allegations made in the complaints are found to be baseless and false and no truth in the allegations.

2. That it is relevant to mention here that the petitioner No.2 has filed a complaint under section 156(3) Cr.P.C. before the court of Ld. Judicial Magistrate Ist Class, Fatehabad who vide order dated 15-6- 2017 called the status report from the respondent No.4. The status report was submitted before the Illaqua Magistrate to the effect that the complainant/petitioner No.2 does not want to pursue the on- complaint lodged by him.”

It is evident from a perusal of the above statement that Ranjit Singh had committed suicide and that the petitioners have willfully executed transfer deed of the land in favour of their grandsons. Subsequently, they had also submitted an application to not pursue any of the complaints that had been submitted by them. The allegations levelled by the petitioners were also inquired into and they were found to be baseless and false. So much so that the petitioners had also filed a complaint under Section 156 (3) of the Criminal Procedure Code, before the Illaqua

Magistrate, Fatehabad and a status report had been called for by the Judicial Magistrate First Class vide order dated 15.06.2017. The said status report submitted contained a report that the petitioner No.2-complainant did not want to pursue the complaint lodged by him. Further, a status report by way of affidavit of Dharambir Singh, HPS, Deputy Superintendent of Police (HQ) Fatehabad, was also filed on 14.01.2019 giving a detailed account. The relevant extract of the said status report reads as under:-

“1. That it is relevant to mention here that the petitioner No.2 has filed a complaint under section 156(3) Cr.P.C. before the court of Ld. Judicial Magistrate Ist Class, Fatehabad who vide order dated 15-6- 2017 called the status report from the respondent No.4. The status report was submitted before the Illaqua Magistrate to the effect that the complainant/petitioner No.2 does not want to pursue the on- complaint lodged by him. Bodiwali were recorded to the effect that on account of death of their son Ranjit, they were mentally disturbed. Their son Ranjit died due to consuming of pesticide. The petitioner No. 2 Mohar Singh has specifically recorded in his statement that he has transferred his agriculture land measuring 43 Kanal 8 Marla of village Bodiwali falling in the revenue estate of village Bodiwali District Fatehabad in the names of his grandsons namely Yogesh Kumar and Dinesh Kumar both sons of deceased Ranjit Singh by his own-will. Both the petitioners have specifically stated that they have made the complaint against the private respondents at the behest of someone and the same was not true. They do not want to pursue the complaints. On the basis of which and inquiry of ASI, Station House Officer, Inspector Mukesh Kumar has verified the facts that the allegations made in the complaints are found to be baseless and false and no truth in the allegations.

2. That it is relevant to mention here that the petitioner No.2 has filed a complaint under section 156(3) Cr.P.C. before the court of Ld. Judicial Magistrate Ist Class, Fatehabad who vide order dated 15-6-2017 called the status report from the respondent No.4. The status report was submitted before the Ilaqua Magistrate to the effect that the complainant/petitioner does not want to pursue the complaint lodged by him.

3. That it is worthwhile to mention here that in view of the order of the Hon'ble High Court of Punjab and Haryana, the respondent No.3 vide order No., 47138-41 dated 24-12-2018 has constituted a Special Enquiry Team headed by Umed Singh, DSP City Ftb consisting Inspector Mukesh Kumar H/103, SI Pushpinder, 462/H and EASI Jailal 513.FTB as members to enquire the facts of case of Shanti Devi w/o Mohar Singh Caste Jat resident of village Bodiwali in c/w CWP No.14603 of 2017.

4. That it is submitted that allegations against the accused are of serious nature for which the SIT had investigated the matter thoroughly, fairly, legally and as per all the canons of legal procedure of investigation. During the enquiry, on 31-12-2018 the statements of Vijay son of Bhagirath, Ashvir son of Manfool, Mahabir son of Begraj, Rajesh son of Ramsawroop Singh, Rohtash son of Ram Singh, Gala Ram son of Duni Ram, Sohan Lal Numberdar son of Manfool, Vikram son of Ashok Kumar, Sunita wd/o Ranjit Singh caste Jat, Ashok Kumar son of Ramji Lal caste Suthar r/o village Bodiwali were got recorded. On 2-1-2019, the statements of Sampat Devi w/o Ram Kumar, (Rai Singh son of Chhotu Ram caste Jat resident of village Kirdan alongwith respectable persons of village Kirdan were recorded. On 01-01-2019, the statements of Om Parkash, Sarla w/o Dashrath, Brij Lal and Om Parkash of Satish son of Dasrath, Karambir son of Brij Lal, Gudi w/o

Advocats as of Ganesha Ram caste Jat resident of village Jandli were ordered. The certified copies of transfer deed and Will in respect of Mohar Singh were taken into possession.

5. That during the enquiry, it was found that Mohar Singh is having two sons and four girls of which Gudi, Kalawati and Sarla married at village Jandili Khurd. Kalawati has expired 4 years ago. Ram Kumar was unmarried and who was expired due to biting by dog. Kamlesh married at village Khaira Kalan (Punjab) the youngest son was Ranjit. Mohar Singh had distributed his land in equal share between their sons. Due death of Ram Kumar, the land in share of Ram Kumar was transferred in the name of Shanti Devi (being mother) and later on it was transferred in the name of Mohar Singh. Ranjit was married with Sunita R/o Kirdhan. Yogesh, Dinesh, Sonika and Monika are sons and daughters of Ranjit and Sunita. Mohar Singh and Shanti Devi-petitioners remained residing separately. On 15-07-2016, Mohar Singh and Shanti Devi both the petitioners remained residing with her daughter Kamlesh at village Khaira Kalan (Punjab). On 20-7-2016, Ranjit Singh son of Mohar Singh committed suicide by consuming the poisonous thing. Mohar Singh and Shanti Devi (father and mother of deceased Ranjit) alongwith other relatives were present in the cremation of Ranjit and were remained present for 40 days at village Bodiwali in connection with Sanskar rites of Ranjit.

6. That it is submitted that Mohar Singh/ petitioner No.2 has lodged the complaint dated 16.09.2017, 23.09.2016, 28.09.2016 and 17-5-2017. The said complaints were enquired by ASI Mahender Singh 371/H and SHO/Inspector Mukesh Kumar PS Bhattu Kalan. During the inquiry, the Statements of petitioners as well as the respectable of the village were recorded to the effect that on account of death of their son

Ranjit, they were mentally disturbed. Ranjit died due to consuming of pesticide. They have willfully transferred the land measuring five Killa in the name of their grandson. They have made the complaint against the private respondents at the behest of someone and the same was not true. They do not want to pursue the complaints. On the basis of which and inquiry of ASI, SHO/Inspector Mukesh Kumar has verified that the allegations made in the complaints are found to be baseless and false and no truth in the allegations.

7 That it is submitted that Mohar Singh/ petitioner No.2 has filed a complaint under section 156(3) Cr.P.C. before the court of Ld. Judicial Magistrate Ist Class, Fatehabad who vide order dated 15-6-2017 called the status report from the respondent No.4. The status report was submitted before the Illaqa Magistrate to the effect that the complainant/petitioner No.2 do not want to pursue the complaint lodged by him. Upon which, the Ld. JMIC vide order dated 2-11-2017 has declined the request of Mohar Singh to register the FIR under section 156(3) Cr.P.C. and case was adjourned to 17-1-2018. On 12-7-2018, Mohar Singh has expired due to heart attack. Upon which, Dharampal has filed an application for arrayed as party in the complaint being (son-in-law of Mohar Singh). The next date of hearing in the complaint is 13-2-2019. Despite this Mohar Singh had filed a civil suit titled as Mohar Singh @ Mohru Singh versus Yogesh Kumar and others in the court of Ld. Civil Judge (Senior Division), Fatehabad and have challenged the sale deed No. 2921 executed on 21.07.2016 in the office of Sub-Registrar, Fatehabad by which he has transferred his agriculture land measuring 43 Kanal 8 Marla of village Bodiwali falling in the revenue estate of village Bodiwali District Fatehabad in the names of his grandsons namely Yogesh Kumar and Dinesh Kumar both sons of

deceased Ranjit Singh by his own-will and the above said civil suit is now pending on 24.01.2019 for finally arguments.”

8. That during the inquiry, it was found that Ranji son of Mohar Singh resident of village Bodiwali was expired due to consuming of poisonous things and Dharampal r/o Khaira(pb) (son in law of Mohar Singh) got filed the false and baseless complaints to grab the land.”

It is well established that a Special Inquiry Team had been constituted by respondent No.3 vide order No.47138-41 dated 24.12.2018 which was headed by Umed Singh, DSP and comprising of Inspector Mukesh Kumar, SI Pushpinder and EASI Jailal. All the allegations have been inquired into and the same were found to be unsubstantiated and uncorroborated. It was also reported in the aforesaid status report that Dharampal (son-in-law of petitioner Mohar Singh) has filed false and baseless complaints in order to facilitate the grabbing of the said land.

Even though the aforesaid written statement and status report had been filed way back in the year 2017 and 2019 respectively, no replication/rejoinder controverting or countering the stand of the respondent-State has been filed so far. There is thus no reason for this Court to come to any inference to the contrary. Furthermore, since the allegations have already been inquired into and the civil disputes qua the land are pending before the Court, the status report submitted by the respondent Authorities cannot be said to be misconceived or wholly untenable. Invariably, the *inter se* rights of the minors, the validity of the transfer deed are matters which are required to be determined by the Civil Courts and the filing of the present petition only seems to be an attempt at influencing the

inquiry and exerting pressure on the accused to surrender to the demands of the petitioners. The present petition is clearly an abuse of the process of law and deserves to be dismissed.

The present petition is accordingly dismissed. The petitioners would, however, be at liberty to pursue their alternative remedies before the appropriate forums.

January 11, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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