

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

**CRM-M-45472-2023 (O&M)**

**Date of Decision: 04.10.2023**

Surinder Kaur and others

.....Petitioners

Versus

Harmail Singh and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

**Present:** Mr. S.S. Swaich, Advocate &  
Mr. Sahibjit Singh Sandhu, Advocate  
for the petitioners.

Mr. Tarun Aggarwal, Sr. D.A.G., Punjab.

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**PANKAJ JAIN, J. (ORAL)**

1. Petitioners have approached this Court under Section 482 Cr.P.C challenging judgment and order dated 17.07.2023 (Annexure P-4) passed by the Revisional Court whereby revision preferred by the complainant/respondent No.1 against the discharge of the accused including the petitioners stands allowed.

2. The dispute relates to Will dated 17.12.2001 of Surjit Kaur (deceased) who died on 04.06.2002. After her death, the Will alleged to have been executed by her was produced before the Sub-Registrar, who was also one of the accused. The Sub-Registrar after issuing public notice proceeded on to register the said Will which led to a civil litigation as well as the present complaint. At the time of framing of charge, the trial Court discharged the accused. The complainant challenged the said order in revision. The Revisional Court vide impugned order has allowed the revision observing that at the time of framing of charges, the Court is to

see material adduced on record and once prima-facie case is made out, the trial Court has to frame charges. The Revisional Court found that there was sufficient material on record to make out a *prima-facie* case against the petitioners.

3. While assailing the order passed by the Revisional Court, Mr. Swaich, counsel for the petitioners contends that keeping in view that the present case was a complaint case the test required was more than *prima-facie* and not merely *prima-facie*. It is further contended that the Revisional Court in order to conclude that there is evidence on record to make out a *prima-facie* case has relied upon the findings recorded by the Civil Court as well as revenue authorities which is against the settled proposition of law that the criminal Courts are not bound by the findings recorded by the Civil Court as well as revenue authorities. Lastly, he submits that the Revisional Court erred patently in directing the trial Court to frame charges against the petitioners which was beyond the scope of Revisional Court. In support of his contention, he has relied upon the judgments of Supreme Court in the matters of ***Iqbal Singh Marwah & Anr. Vs. Meenakshi Marwah & Anr., 2005(2) R.C.R. (Criminal) 178*** and ***Kishan Singh(D) through LRs Vs. Gurpal Singh & Ors., 2010 AIR (Supreme Court) 3624***.

4. I have heard the counsel for the parties and have gone through records of the case.

5. Admittedly, during the life time of Surjit Kaur till 04.06.2002, the Will never saw light of the day and was produced for the first time before the Sub-Registrar after more than nine months of her death i.e. on 28.03.2003. Further, there is one attesting witness apart

from the scribe who has signed on the Will. Coming to the plea raised by counsel for the petitioners with respect to binding effect of the findings recorded by the Civil Court/revenue authorities on the criminal Courts, there can't be any dispute with respect to proposition of law that neither the findings recorded by the Civil Court nor by the revenue authorities have any binding effect on the criminal Courts. However, this is a case which is at the stage of framing of charges. Thus, the question would be as to whether the criminal Court is even precluded from looking at the findings recorded by Civil Court/revenue authorities which has been adduced by the complainant or not.

6. In the considered opinion of this Court, there cannot be any such bar on the Courts from even looking at the evidence which has come on record even if the same is in the form of findings returned by Civil Court or revenue authorities. In the present case, the Revisional Court after analysing the evidence came to the conclusion that the trial Court erred in discharging the accused, more so, in light of the fact that there was material adduced on record to make out a *prima-facie* case against the petitioners and thus, rightly exercised jurisdiction vested under Section 397 of the Code to set aside the order.

7. Coming on the second limb of arguments raised by Mr. Swaich, counsel for the petitioners with respect to the test of more than *prima-facie* and not merely the *prima-facie* case, this Court finds that at the time of framing of charge the Court is required to see if there is evidence on record which can lead to the conviction of petitioners. Revisional Court has precisely ascribed to the said test only. Resultantly, there is no force in the contention raised by counsel for the petitioners. So

far as the objection with respect to the alleged direction to the trial Court for framing charges after going through the entire evidence on record, this Court finds that there is no such blanket direction that the trial Court is required to frame charge. The Revisional Court has rightly directed the trial Court to consider all the relevant materials at the time of framing of charge. Resultantly, the said objection is misconceived and the same is rejected.

8.               Consequently, the petition is dismissed. Needless to say, nothing recorded hereinabove or by the Revisional Court should be construed as expression on merits of the case.

October 04, 2023

*Deepak Patwal*

( PANKAJ JAIN )  
JUDGE

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