

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5752-2024

Date of Decision: February 27, 2024

HARDEV SINGHPetitioner
Versus
STATE OF PUNJAB AND ANRRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Rajesh Punj, Advocate and
Mr. Sahaj Punj, Advocate for the petitioner.
Mr. Athar Ahmed, DAG, Punjab.
Mr. Vivek Singla, Advocate for respondent No.2

HARKESH MANUJA, J. (ORAL)

By way of present petition, prayer has been made for setting aside of an order dated 14.12.2023 passed by the learned Addl. Chief Judicial Magistrate, Barnala whereby an application filed under Section 311 of CrPC at the instance of petitioner-complainant stands declined.

2. In the present case, FIR No.76 dated 29.08.2016 was registered under Sections 420, 465, 467, 468 and 471 IPC at P.S. Rure Ke Kalan, District Barnala at the instance of the petitioner against respondent No.2 for alleged forgery of Will dated 14.07.2012 regarding the property of Gajjan Singh, situated in village Pakho Kalan. The charges in the aforesaid FIR were framed on 12.04.2017 followed by appearance of petitioner as PW1 on 22.07.2019. The prosecution evidence concluded on 22.02.2022 and thereafter statement of respondent No.2 under Section 313 was recorded on 24.11.2022.

3. At the time of recording of defence evidence, an application dated 12.12.2023 came to be filed at the instance of petitioner, seeking permission to prove the consolidation record pertaining to the land in

question situated in village Pakho Kalan, District Barnala wherein it was entered that Gajjan Singh migrated to Myanmar(Burma). The aforesaid application was vehemently opposed at the instance of respondent and the same finally came to be declined vide order dated 14.12.2023.

4. Impugning the aforesaid order, learned counsel for the petitioner submits that the consolidation record sought to be produced was very much necessary for just and effective adjudication of the case in hand and the same would help the trial Court to establish the guilt of respondent No.2 as regards forgery of the Will in question.

5. On the other hand, learned counsel for respondent No.1 submits that the document now sought to be produced is already part of the record in the form of certified copy thereof which has even been noticed by the Court below while passing the impugned order and thus the same warrants no interference.

6. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

7. In the present case, the entire dispute revolves around alleged forgery committed by respondent No.2 as regards the execution of Will dated 14.07.2012 relating to the property owned by deceased-Gajjan Singh, situated in village Pakho Kalan, District Barnala and in order to prove the same, the petitioner intends to prove on record the fact that the said Gajjan Singh having migrated to Burma (Myanmar) later died there, which can be established from the consolidation records of the said village. In these circumstances, the documents

sought to be proved appear to be relevant for the purpose of adjudication of case in hand and would definitely help the Court to arrive at just and fair conclusion. Moreover, the documents sought to be proved relate to the consolidation record prepared more than sixty years back.

8. Accordingly, in the humble opinion of this Court, the reasoning recorded by the trial Court for declining the prayer made in the application on the ground that the document sought to be proved already forms part of the record is unsustainable as were certified copy thereof being part of judicial file would not be sufficient for the learned Court to treat the same as a piece of evidence against the accused, unless it was proved on record and made part of the evidence. Furthermore, mere delay may not be enough to decline the prayer made by the petitioner, in the given facts as the documents sought to be proved are of unimpeachable authenticity besides having substantial relevance and further the cause of justice.

9. In view of the above, the present petition is allowed and the impugned order dated 14.12.2023 passed by the learned Addl. Chief Judicial Magistrate, Barnala is hereby set aside thereby granting the prayer made by the petitioner, in his application dated 12.12.2023 as regards production and proving of consolidation records.

10. Pending application(s), if any, shall also stand disposed of.

27.02.2024

Tejwinder

(HARKESH MANUJA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No