

241 IN THE HIGH COURT OF PUNJAB ANND HARYANA
CHANDIGARH

CRM-M-8360 of 2019
Date of Decision: 20.01.2024

SHINDERPAL SINGH AND ORS.

.....Petitioners

versus

STATE OF PUNJAB AND ANR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rishav Jain, Advocate
and Mr. Arun Jindal, Advocate
for the petitioners.

None for Respondent no. 2

Mr. Sandeep Kumar, DAG Punjab

HARPREET SINGH BRAR J. (Oral)

1. The petitioners have approached this Court by filing present petition under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.169 dated 16.06.2018 (Annexure P-1) registered at Police Station City Sangrur under Sections 419, 465, 467, 471, 120-B of the Indian Penal Code, along with all subsequent proceedings arising out of the impugned FIR.

FACTUAL BACKGROUND

2. The marriage between petitioners no. 3 & 4 namely Bikramjit Singh and Manpreet Kaur, was solemnized on 11.09.2016 at Gurudwara Kalgidhar Sahib, Sangrur against the wishes of respondent no.2/complainant-Bahadur Singh, who is the father of petitioner no.4. Respondent no. 2-complainant was not present for the marriage ceremony, however, petitioners no.1 and 2, in conspiracy with their son- petitioner no. 3-Bikramjit Singh, forged his signatures on the

Marriage Certificate dated 11.09.2016 issued by the said Gurudwara. On

becoming aware of the same, respondent no.2 moved a complaint before the concerned police officials which resulted in the above-mentioned impugned FIR. All the petitioners were released on bail by the learned Additional Sessions Judge, Sangrur vide its order dated 21.07.2018.

CONTENTIONS

3. Learned counsel for the petitioners inter alia contends that a perusal of the impugned FIR would indicate that no offence under the above-mentioned sections is made out against the petitioners and the whole grievance on the part of respondent no.2/complainant arises from his resentment towards the fact that his daughter petitioner no. 4-Manpreet Kaur has married petitioner no. 3 of her own volition and without his blessings. It is further contended that the alleged forged Marriage Certificate has never been used by the petitioners since they have Marriage Registration Certificate (Annexure P-2) dated 09.02.2017 issued by Registrar of Marriages, U.T. Chandigarh.

4. Learned counsel for the petitioners vociferously contends that petitioner no.3 & 4 have been happily married for 7 years now and even have two young children and that if such vexatious criminal proceedings are allowed to linger against the petitioners, it would disrupt not just the lives of the petitioners but the children as well.

5. *Per contra* learned counsel for the State while reiterating the points mentioned in the reply dated 29.04.2019 filed by way of affidavit by Satpal Sharma PPS, Deputy Superintendent of Police, Sub-Division, Sangrur, also submits that all the petitioners in connivance with each other have forged the signatures of respondent no.2 and have mislead the learned Courts below by implying two dates/places of marriage.

OBSERVATION AND ANALYSIS

6. Having heard the learned counsel for the parties and after perusing the record it transpires that a similar complaint was moved earlier against the petitioners by respondent no. 2 before Senior Superintendent of Police, Patiala. Thereafter, respondent no. 2 submitted another application on 08.01.218 which was inquired into by Deputy Superintendent of Police, Sangrur. After conducting a thorough probe, the instant FIR was registered on the allegation that the petitioners, after hatching a conspiracy, have performed the marriage of petitioner no. 3 and 4. Furthermore, petitioner no. 4-Manpreet Kaur had filed a case on 14.10.2016 under Section 125 of the Cr.P.C. seeking maintenance where it has been duly mentioned that petitioner no. 3 and 4 got married on 11.09.2015. It has also been mentioned that petitioner no. 4 is currently residing in her parental house with her parents. Allegedly, the petitioners have shown themselves to be married twice i.e. in Sagroor and Chandigarh and the Marriage Certificate issued by the *granthi* of Gurudwara Kalgidhar Sahib, Indra Colony, Sangrur bears forged signature of respondent no. 2. However, the basic ingredient to make out a case of cheating which is culpable intention from the inception of the alleged offence, is completely missing.

7. Reliance in this regard can be placed on **Arun Bhandhari v. State of Uttar Pradesh (2013) 2 SCC 693**, wherein a two Judge bench of the Hon'ble Supreme Court, speaking through Justice Dipak Misra, made the following observations:-

*“20. In G.V. Rao v. L.H.V. Prasad and others, 2000(2) RCR (Criminal) 290 : (2000)3 SCC 693 this Court has held thus:-
"7. As mentioned above, Section 415 has two parts. While in the first part, the person must "dishonestly" or "fraudulently" induce the complainant to deliver any property; in the second part, the person should intentionally induce the complainant to do or omit to do a thing. That is to say, in the first part,*

*inducement must be dishonest or fraudulent. In the second part, the inducement should be intentional. As observed by this Court in **Jaswantrai Manilal Akhaney v. State of Bombay, AIR 1956 Supreme Court 575** a guilty intention is an essential ingredient of the offence of cheating. In order, therefore, to secure conviction of a person for the offence of cheating, "mens rea" on the part of that person, must be established. It was also observed in **Mahadeo Prasad v. State of W.B., AIR 1954 Supreme Court 724** that in order to constitute the offence of cheating, the intention to deceive should be in existence at the time when the inducement was offered."*

8. Both petitioners 3 and 4 were major at the time of their marriage. The certificate, on which the signatures of respondent no. 2 have allegedly been forged, has not seen the light of day till date. In fact, the petitioners have been granted protection by this Court on the basis of certificate issued by the Registrar of Marriages, U.T. Chandigarh (Annexure P-2). As submitted by learned counsel for the petitioners, petitioner no. 3 and 4 are happily cohabitating and have also been blessed with two children. The present FIR was lodged merely in furtherance of the resentment harboured by respondent no. 2 on account of love marriage of petitioner no. 3 and 4, solemnised without his consent. There is nothing on record to suggest that the petitioners can be held liable for forgery and fabrication of the disputed Marriage Certificate.

9. A two Judge Bench of the Hon'ble Supreme Court in **Mir Nagvi Askari Vs. Central Bureau of Investigation (2009) 15 SCC 643** speaking through Justice S.B. Sinha, has held as under:-

"166.However, since we have already held that the commission of the said offence has not been convincingly established, the accused could not have been convicted for the offence of forgery. The definition of "false document" is a part of the definition of "forgery". Both must be read together. [Vimla (Dr.) v. Delhi Admn. AIR 1963 SC 1572 : 1963 Supp (2) SCR 585]. Accordingly, the accused could not have been tried for offence under Section 467 which deals with forgery of valuable securities, will, etc. or Section 471 i.e. using as genuine a forged document or Section 477-A i.e. falsification of accounts. The conviction of the accused for the said offences is

accordingly set aside.”

10. A two Judge Bench of the Hon’ble Suprme Court in **Sheila Sebastian Vs. R. Jawaharaj and another (2018) 7 SCC 581** speaking through Justice N.V. Ramana has held as under:-

“26. *The definition of “false document” is a part of the definition of “forgery”. Both must be read together. “Forgery” and “fraud” are essentially matters of evidence which could be proved as a fact by direct evidence or by inferences drawn from proved facts. In the case in hand, there is no finding recorded by the trial court that the respondents have made any false document or part of the document/record to execute mortgage deed under the guise of that “false document”. Hence, neither Respondent 1 nor Respondent 2 can be held as makers of the forged documents. It is the imposter who can be said to have made the false document by committing forgery. In such an event the trial court as well as the appellate court misguided themselves by convicting the accused. Therefore, the High Court has rightly acquitted the accused based on the settled legal position and we find no reason to interfere with the same.*

27. *A reasonable doubt has already been thoroughly explained in **Latesh v. State of Maharashtra** [Latesh v. State of Maharashtra, (2018) 3 SCC 66 : (2018) 2 SCC (Cri) 235] wherein “reasonable doubt” has been enunciated by this Court as (at SCC p. 83, para 46) “a mean between excessive caution and excessive indifference to a doubt, further it has been elaborated that reasonable doubt must be a practical one and not an abstract theoretical hypothesis.*

28. In this case at hand, the imposter has not been found or investigated into by the officer concerned. Nothing has been spilled on the relationship between the imposter and Respondent 1. Law is well settled with regard to the fact that however strong the suspicion may be, it cannot take the place of proof. Strong suspicion, coincidence, grave doubt cannot take the place of proof. Always a duty is cast upon the courts to ensure that suspicion does not take place of the legal proof. In this case, the trial court as well as the appellate court got carried away by the fact that accused is the beneficiary or the executant of the mortgage deed, where the prosecution miserably failed to prove the first transaction i.e. PoA as a fraudulent and forged transaction. The standard of proof in a criminal trial is proof beyond reasonable doubt because the right to personal liberty of a citizen can never be taken away by the standard of preponderance of probability.”

CONCLUSION

11. In view of the above discussion, the present petition is allowed and the impugned FIR No.169 dated 16.06.2018 (Annexure P-1) registered at Police Station City Sangrur under Sections 419, 465, 467, 471, 120-B of the Indian Penal Code, along with all subsequent proceedings arising out of the same, are hereby quashed. The bail bonds and surety bonds of the petitioners stand discharged.
12. Pending CRM(s), if any, are also disposed of accordingly.

20.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>