



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

CRM-M-17753-2015
Reserved on 02.09.2024
Date of decision: 14.10.2024

Davneet Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Rishav Jain, Advocate for
Mr. Jaspreet Singh, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner/accused under Section 482 Cr.P.C seeking quashing of impugned order dated 04.06.2011 (Annexure P-4) passed by the Court of Judicial Magistrate Ist Class Faridabad, whereby it was ordered to frame charges under Section 420, 467, 468, 471 read with Section 120-B IPC against all the accused persons including the petitioner in a criminal case having FIR No.110 dated 26.04.2008 under Section 419, 420, 468, 471, 120-B IPC, Police Station Sarai Khawaja, Faridabad and charge-sheet dated 04.06.2011 (Annexure P-4) qua the petitioner and the order dated 07.04.2015 (Annexure P-6) passed by the Court of Additional Sessions Judge, Faridabad whereby the revision petition filed by the petitioner against aforesaid order dated 04.06.2011 (Annexure P-4) was dismissed.

2. The brief facts of the case are that respondent No.2 Gurmej



Singh Sokhi lodged complaint with the police that he is settled in Nairobi (Kenya) and is owner of plot No.B-63, Ashoka Enclave, Extension-II, Faridabad ad-measuring 444 square yards which was purchased by him vide sale deed dated 06.06.1975. Later on he came to know that his plot was fraudulently sold by some other persons who procured one fake General Power of Attorney (in short GPA) alleged to be executed by the complainant in favour of Akash Gupta and Usha Devi. The said GPA was never executed by the complainant and rather some third person who impersonated as Gurmej Singh Sokhi executed the same.

3. The matter was investigated. Chaman Lal, Namberdar an attesting witness of GPA and Will both dated 02.06.2006 and Mukhtiar Singh scribe of the alleged Will were arrested on 10.02.2010. The police presented challan against them. Subsequently, Rajesh Nagpal who typed alleged GPA and the present petitioner were formerly arrested and supplementary challan was presented against them.

4. The counsel for the petitioner *inter alia* submits that FIR in this case was registered at the instance of complainant Gurmej Singh Sokhi who is real brother of Surender Singh Sokhi and both the brothers are permanently settled abroad. It is further submitted that there are allegations in the FIR that complainant is owner of the property in question situated in Faridabad and that some unknown persons forged one GPA in favour of Aakash Gupta and Usha Devi with regard to the said property, purported to be executed by the complainant. At the time of execution of the said GPA, some unknown person impersonated himself as a complainant Gurmej Singh Sokhi. There are also allegations that the said GPA dated 02.06.2006



was scribed by Rajesh Nagpal deed writer, in presence of marginal witnesses namely Chaman Lal, Namberdar and Jai Parkash at Jalandhar and the said document was got registered in the office of Sub Registrar, Jalandhar on the same very day i.e. 02.06.2006. There are also allegations that on the same day, the said impersonator also executed one registered will in favour of aforesaid Aakash Gupta and Usha Devi with regard to property in question, in presence of aforesaid marginal witnesses and the will was scribed by Mukhtiar Singh, deed writer (since deceased). That subsequently, the alleged purchasers have raised construction in the property in dispute.

5. The counsel for the petitioner has further contended that as per record aforesaid Aakash Gupta and Usha Devi are the beneficiaries of alleged GPA dated 02.06.2006. Counsel for the petitioner has further submitted that from the perusal of the record, it is also revealed that after the execution of registered GPA dated 02.06.2006, aforesaid beneficiaries Aakash Gupta and Usha Devi sold the property in question to Chunni Lal and Rajat Gupta vide registered sale deed dated 05.02.2008, on the basis of aforesaid GPA, in presence of marginal witnesses namely Harikant Sharma, Advocate and Kailash Chand and said sale deed was drafted by P.D Prashar, Advocate.

6. The counsel for the petitioner has further contended that none of the aforesaid disputed documents i.e. registered GPA, Will both dated 02.06.2006 and registered sale deed dated 05.02.2008 were signed or thumb marked by the present petitioner. It has been further submitted that the petitioner was not named in the FIR. That during investigation, the name of



the petitioner figured in the disclosure statements made by Rajesh Nagpal and Mukhtiar Singh. It is further submitted that no recovery was effected on the basis of said two disclosure statements made by co-accused namely Rajesh Nagpal and Mukhtiar Singh and thus, the same cannot be considered as a legal evidence. The counsel for the petitioner has further submitted that the petitioner was granted anticipatory bail by this Court vide order dated 27.07.2010 wherein plea was taken by the counsel for the petitioner that Davneet Singh was enroped only due to the fact that brother of the complainant namely Surender Singh Sokhi is looked after by the present petitioner, when he visits India and said Surender Singh Sokhi is in litigation with complainant Gurmej Singh Sokhi, the owner of property in question. It has been further contended that the only allegations against the present petitioner are that he colluded with the other accused persons on the behest of Surender Singh Sokhi to grab property of the complainant. The counsel for the petitioner has further submitted that during investigation, the identity of the person who impersonated as Gurmej Singh Sokhi was not established and as such, police failed to arrest the said impersonator. It has been further contended that the beneficiaries of the transactions in question namely Aakash Gupta, Usha Devi, Chunni Lal and Rajat Gupta were not impleaded as accused in the present case. The petitioner is not beneficiary in any manner and no money relating to transactions in question was ever transferred in his bank account. The petitioner was having no motive to commit the alleged fraud by colluding with the other accused persons. It has been further argued that *prima facie* no offence is made out against the present petitioner and that the impugned orders deserve to be set aside.



7. The present petition is resisted by the State counsel, who has submitted that some third person impersonated as complainant Gurmej Singh Sokhi and signed registered GPA dated 02.06.2006 and the said document was in favour of Aakash Gupta and Usha Devi and on the basis of said forged GPA, the property belonging to the complainant was sold to Chunni Lal and Rajat Gupta vide registered sale deed dated 05.02.2008. It has been further submitted that during investigation, the scribe and attesting witnesses of forged GPA and Will both dated 02.06.2006 were arrested. During interrogation, Rajesh Nagpal deed writer who typed the forged GPA and Mukhtiar Singh, deed writer who scribed registered Will, suffered disclosure statements wherein they revealed that the said documents were drafted/scribed by them on the asking of petitioner Davneet Singh a close associate of Surender Singh Sokhi, who is having property dispute with the complainant. It is further submitted that the trial Court rightly framed charges against the petitioner and other accused persons vide order dated 04.06.2011. Even, the revision petition filed by the petitioner against the said order was also rightly dismissed by the Court of Additional Sessions Judge, Faridabad vide order dated 07.04.2015

8. I have considered the submissions made by counsel for the parties.

9. The FIR in this case was registered against unknown persons. The matter was investigated. Both the marginal witnesses namely Chaman Lal and Jai Parkash and Mukhtiar Singh scribe of Will were arrested. During investigation, police was unable to establish the identity of the fake person who impersonated as complainant Gurmej Singh Sokhi at the time of



execution of registered GPA and registered Will both dated 02.06.2006.. From the perusal of record, it appears that Mukhtiar Singh suffered disclosure statement wherein he stated that bogus person who introduced him as Gurmej Singh Sokhi was brought by the present petitioner and he scribed the Will in question only on the asking of the petitioner. There is another disclosure statement of Rajesh Nagpal, deed writer, wherein also he stated so and named the petitioner to be the person who brought the fake person who claimed himself to be Gurmej Singh Sokhi. As no recovery was effected on the basis of the aforesaid disclosure statements made by co-accused against the present petitioner, the same could not be considered as a legal evidence. In this context, reference is made to decision of Madhya Pradesh High Court dated 20.03.2003 in Criminal Revision No.133 of 2003 titled as ***Smt. Kaushalya Devi Vs. State of Madhya Pradesh*** wherein it was held that merely appearance of name of applicant in the statement of co-accused, is not sufficient to take cognizance and to frame charge for putting the applicant on trial, when in pursuance of the such statement recorded under Section 27 of Evidence Act, no relevant facts were discovered.

10. It is the admitted case of the prosecution that documents in question were not signed by the petitioner. There is no proof that any money relating to transactions in question was transferred in the bank account of the petitioner. During investigation, prosecution has also failed to establish that any benefit (monetary or otherwise) accrued to the petitioner in any manner. Actual beneficiaries namely Aakash Gupta, Usha Devi, Chunni Lal and Rajat Gupta were not nominated as accused in the present case. There are allegations that the present petitioner introduced Gurmej Singh Sokhi,



the alleged person who impersonated the real owner of the property in question, to the deed writers namely Rajesh Nagpal and Mukhtiar Singh and induced them to scribe/type GPA and Will both dated 02.06.2006. During investigation, police was unable to collect any evidence to establish the direct enmity if any, was their between the petitioner and the complainant. However, there are allegations that Surender Singh Sokhi was having property dispute with the complainant, his real brother. Admittedly, police has not taken any action against said Surender Singh Sokhi, till date. During investigation, police has failed to *prima facie* establish that the petitioner was having motive on his part to commit the fraud in question by colluding with the other accused persons. Investigation is also silent as to whether the petitioner was known to other accused persons or there was any meeting of minds, prior to 02.06.2006.

11. In the given circumstances, proceedings against the petitioner without implicating Surender Singh Sokhi or the actual beneficiaries namely Aakash Gupta, Usha Devi, Chuni Lal and Rajat Gupta would amount to miscarriage of justice specially in absence of any material attributed to the petitioner, bringing him within the purview of Section 120-B IPC.

12. No doubt, at the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing of charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible. In the instant case, the prosecution has failed to collect any legal evidence against the petitioner regarding his involvement in the



alleged cheating and forgery. Thus, continuation of the criminal proceedings against the petitioner on the basis of order dated 04.06.2011 (Annexure P-4) passed by the learned trial Court would amount to abuse of the process of Court as well as that of law. Even, order dated 07.04.2015 (Annexure P-6) passed by the revisional Court is not sustainable and deserves to be set aside.

13. For the foregoing reasons, the present petition is allowed and impugned order dated 04.06.2011 (Annexure P-4) passed by the Court of Judicial Magistrate Ist Class, Faridabad and order dated 07.04.2015 (Annexure P-6) passed by the Court of Additional Sessions Judge, Faridabad are hereby set aside. The petitioner stands discharged in the present case.

14. Any observation made herein above is limited to the petitioner herein, with no bearing on the trial of the other accused persons.

14.10.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No