

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

147

CRM-M-14092-2024
Date of decision : 18.03.2024

Jagir Singh

..... Petitioner

versus

Daljinder Singh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Amandeep Singh Jawandha, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 482 Cr.P.C. seeking quashing of the complaint bearing No.COMI/841/2016 under Sections 420, 467, 468, 471, 354, 323, 341, 506, 447, 511, 120-B of IPC dated 16.11.2016 (Annexure P-5) as well as summoning order dated 20.12.2023 (Annexure P-6).

2. As per the complaint, the dispute relates to estate of one Kartar Singh. Kartar Singh died on 30.12.2009 and it is being claimed that after his death, Will dated 27.11.2004 was fraudulently prepared which the petitioner attested as attesting witness and the same was got registered after the death of Kartar Singh from the Office of Sub-Registrar Jagraon on 29.03.2010.

3. Relying upon the said forged Will, mutation No.5134 was got sanctioned. After the complainant came to know of the said forgery, he filed an appeal and the mutation on the basis of the Will was got annulled and set aside.

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4. Counsel for the petitioner submits that now the parties after filing civil suits have got the estate inherited on the basis of natural succession deed and thus in fact no loss has been caused on account of said forged Will and thus it will be a case for this Court to exercise jurisdiction under Section 482 of the Code to quash the complaint as well as summoning order.

5. Having heard counsel for the petitioner and after going through the records of the case, this Court finds that merely for the reason that the Will was disbelieved from the Civil Court, jurisdiction under Section 482 cannot be exercised that too when the precise allegation in the complaint is with respect to forgery of the Will. The precise allegation against the petitioner is of having attested the document after the death of Kartar Singh i.e. after 30.12.2009 by anti-dating the same to be that of 27.11.2004 and thereafter appearing before the Sub-Registrar projecting the same to have been executed by Kartar Singh prior to his death on 29.03.2010.

6. In the considered opinion of this Court, the argument raised is misplaced rather disbelieving of the Will by the Civil Court cuts against the argument being raised by counsel representing the petitioner.

7. With respect to exercise of jurisdiction under Section 482 of the code having booked laid down clearly by Apex Court in **State of Haryana and others vs. Ch. Bhajan Lal and others reported as 1992 SCC (Cri) 426** wherein Apex Court held as under:-

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“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not

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constitute a cognizable offence but constitute only a noncognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

8. In view of above, no case for exercise jurisdiction under under Section 482 of the code is made out and the same is hereby dismissed.

(PANKAJ JAIN)
JUDGE

18.03.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No