

257

Neutral Citation No: 2024:PHHC:059365

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19574 of 2015 (O&M)
Date of Decision: 30.04.2024

MANMEET KAUR

..... PETITIONER

VERSUS

SARDARA SINGH (DECEASED) THROUGH LRS

..... RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Meghna Nehra, Advocate, for
Mr. S.K. Nehra, Advocate for the petitioner.

Mr. Liaqat Ali, Advocate for respondent No.1(3).

SANDEEP MOUDGIL, J (ORAL)

1. RELIEF SOUGHT

This is a petition under Section 482 Cr.P.C. for quashing of Criminal Complaint No.09 of 2012 dated 25.07.2012 (Annexure P-7) titled as '**Sardara Singh Vs. Chabber Singh and others**', pending before Judicial Magistrate Ist Class, Ludhiana as well as the summoning order dated 09.10.2012 (Annexure P-8), and all subsequent proceedings arisen therefrom.

2. FACTS

The factual matrix of the present case is that the petitioner is the daughter in law of Late Sh. Chabber Singh who was the real brother of the complainant Sardara Singh. The petitioner is married to the son of Late Sh.

Chabber Singh. Both Late Sh. Chabber Singh and Sardara Singh (complainant) are real brothers and they entered into a family settlement on 12.2.1989 in which their mother Smt. Gomawanti was also an executant and Sh. Tejinder Pal Singh and Sh. Rajesh Arya were witnesses. Vide this family settlement Sh. Sardara Singh (complainant) was to be the exclusive owner of house situated at Fatehganj Ludhiana and Late Sh. Chhabber Singh (father in law of the petitioner) was to be the exclusive owner of house situated at Naulakha Garden Colony, Ludhiana. This family settlement was entered into between Sh. Chabber Singh (father in law of the petitioner) and Sardara Singh (complainant) in the year 1989. Affidavits were also given by the complainant Sardara Singh with regard to the fact that he would abide by the terms of the family settlement and that Sh. Chabber Singh (father in law of petitioner) would be the exclusive owner of the house situated at Naulakha Colony. The affidavit given by the complainant in the year 1989 is being annexed herewith as Annexure P-2. In terms of the family settlement the father in law of the petitioner submitted a request to the Municipal Commissioner, Ludhiana in the year 1989, for change of the name of owner in the records of Municipal Commissioner regarding the house situated at Naulakha Colony. In spite of the request given to the Municipal Corporation, Ludhiana in the year 1989 nothing was done by the Municipal Corporation with regard to change of ownership and therefore, to get the ownership changed, Sardara Singh (complainant) executed a power of attorney in favour of the father in law of the petitioner namely Chabber Singh with regard to the property situated at Naulakha Colony. In pursuance to the power of attorney executed by the complainant in favour of the father in law of the petitioner and in view of the family settlement arrived in the

year 1989, the father in law of the petitioner transferred the house at Naulakha colony in favour of the petitioner by way of a gift deed dated 12.02.2012.

Due to the fact that now the property situated at Naulakha Colony has a higher market price than the property at Mohalla Fatehganj, the complainant filed a false complaint with the police at Ludhiana for registration of FIR against the petitioner and others wherein, an inquiry was got conducted and it was found that power of attorney was given by the complainant Sardara Singh in his senses and the property has been transferred in the name of the petitioner. Thereafter, Sardara Singh has filed a suit for the cancellation of the registry in favour of Manmeet Kaur(petitioner) and thus, recommendation was made by the investigating officer to file the complaint.

Civil Suit has also been filed by the complainant Sardara Singh before the Civil Judge, Junior Division, Ludhiana for declaring the gift deed dated 12.2.2012 as Null and void with further prayer to declare the power of attorney given by the complainant in favour of father in law of the petitioner a void document. In spite of the fact that the civil litigation is pending between the parties, Sardara Singh filed a criminal complaint No. 09 of 2012 against the petitioner and others wherein, the petitioner has been summoned to face trial for offence under Section 415, 423, 405, 463, 464, 471, 474, 420, 120-B IPC vide summoning order dated 9.10.2012.

3. SUBMISSIONS

ON BEHALF OF PETITIONER

It has been contended by learned counsel for the petitioner that the initiation of criminal proceedings against the complainant is of abuse of

process of law inasmuch as the civil suit has already been initiated questioning the validity of the gift deed dated 12.02.2012, which was pending before the trial Court at Ludhiana around which the whole dispute revolves as also the power of attorney i.e. in favour of the father-in-law of the present petitioner. The whole dispute came to be initiated only after the death of father-in-law Chabber Singh. Hence, he executed the gift deed in favour of the petitioner after the family settlement in the year 1989.

It has been further submitted that a bare perusal of the complaint would show that there is not even a single averment against the petitioner vide which she can be summoned to face trial for the offences as mentioned above. Moreover, in the complaint all the allegations have been levelled by the complainant against the real brother and father in law of the petitioner namely Sh. Chabber Singh alleging that he got the power of attorney executed by fraud and misrepresentation. There is no averment that the petitioner induced the complainant to execute the power of attorney in favour of the father in law of the petitioner. The father in law of the petitioner executed a gift deed in favour of the petitioner on the basis of power of attorney. The said power of attorney was executed in pursuance to the family settlement entered between the complainant and the father in law of the petitioner in the year 1989.

The assertion is that in the inquiry conducted by the police has found the petitioner innocent. In the complaint filed by the complainant the fact with regard to filing of complaint to the police, wherein, after conducting thorough investigation the petitioner was found innocent. The Judicial Magistrate Ist Class, Ludhiana has passed the summoning order 09.10.2012 (Annexure P-8) without considering the investigation report

ON BEHALF OF RESPONDENTS

Learned counsel for the respondents has submitted that Sardara Singh had never executed any affidavit in favour of the petitioner and other accused, rather the same has been prepared by forging the signatures of the deceased Sardara Singh and the petitioner had applied for the change of ownership on the basis of forged and false affidavit of respondent.

Heard.

ANALYSIS & CONCLUSION

Once the civil suit is pending which is at the same set of allegations which definitely constitute civil liability, the initiation of criminal complaint No.09/2012 by the respondent against the present petitioner is admittedly abuse of the process of law.

Even otherwise also, the dispute is amongst the family members pertaining to the right of the properties i.e. House No.B-V/358/35 (Old) and B-XI/470 (New) situated at Naulakha Garden Colony along with the house situated at Mohalla Fateganj, Ludhiana.

In view of above, Criminal Complaint No.09 of 2012 dated 25.07.2012 (Annexure P-7) titled as 'Sardara Singh Vs. Chabber Singh and others', pending before the learned JMIC, Ludhiana as well as the summoning order dated 09.10.2012 (Annexure P-8), with all the consequential proceedings arising therefrom, is quashed qua the petitioner.

The present petition is hereby allowed.

30.04.2024

D.Bansal

(SANDEEP MOUDGIL)
JUDGE

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