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To avoid any repetition, the facts are being taken from CRM-M-23792-2017 filed by Ram Singh.

1. RELIEF SOUGHT

The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of impugned order dated 03.05.2017 (Annexure P-5) passed by Additional Sessions Judge, Sangrur vide which the order dated 02.07.2015 (Annexure P-4) passed by Additional Chief Judicial Magistrate, Sangrur accepting the cancellation report in FIR No. 60, dated 16.04.2013, Police Station Sadar Sangrur, has been set aside with further prayer to quash all the proceedings with regard to protest petition dated 27.11.2013 (Annexure P-3).

2. FACTS

The present case was registered on the basis of the order dated 12.04.2013 passed by Additional Chief Judicial Magistrate, Sangrur on the application under Section 156(3) Cr.P.C. filed by the applicant-Kulwinder Singh, on the allegations that he inherited property from his paternal uncle, Darbara Singh, who died in 2011. Darbara Singh had been cheated by his relatives, Jagjit Singh and Ram Singh (petitioners), who promised to take him abroad and start a new business in exchange for money. Darbara Singh deposited Rs.5,00,000/- in the account of Jagjit Singh in London through Union Bank on 09.07.2010 by transferring the same. Thereafter, again on the asking of Jagjit Singh, he (Darbara Singh) transferred an amount of Rs.15,00,000/- in his account on 28.07.2010, but after the death of Darbara Singh, the accused refused to return the money or fulfill their promises. The applicant has tried to recover the money, but the accused have refused to refund the money. Thus, the accused have committed the offence

punishable under Sections 420, 406, and 34 of the IPC, as they have cheated the applicant/complainant and his paternal uncle. However, instead of taking action against the accused, the police has wrongly filed the cancellation report in connivance with the accused-persons.

3. **SUBMISSIONS**

ON BEHALF OF PETITIONERS:

It has been submitted on behalf of counsel for the petitioners that they have not committed any crime of whatsoever nature and are innocent. It is further submitted that the complainant, Kulwinder Singh, has ulterior motives and has made baseless allegations against them. An inquiry was conducted by Deputy Superintendent of Police wherein, they were found innocent, and accordingly, cancellation report was filed. As per the report the late Darbara Singh, Kulwinder's paternal uncle, had willingly sent money to Jagjit Singh (petitioner in CRM-M-70878-2018) as maintenance and a gift, with no evidence of any fraud or immigration-related dealings. Moreover, during the life time of Darbara Singh, no complaint was ever filed by the deceased against the petitioners and the present complaint has been filed only after the death of Darbara Singh. The petitioners argue that they have been wrongly implicated and prays for allowing the present petition.

ON BEHALF OF COMPLAINANT:

Learned counsel for respondent-complainant has contended that in the year 2010, one relative of Darbara Singh namely Jagjit Singh came from UK to meet his brother Ram Singh and both of them had asked Darbara Singh (paternal uncle of the complainant) that they will taken him to abroad at UK, to start a new

business. It is further contended that a perusal of the FIR makes it evident that at the time when the petitioners made the demand of Rs.20 lacs for taking the complainant and his paternal uncle Darbara Singh to abroad, Mukhtiar Singh and his wife Manjit Kaur were also present.

4. ANALYSIS

The trial Court has accepted the findings given in the inquiry report that an amount of Rs.5 lacs were given by the deceased Darbara Singh to Jagjit Singh, as a gift and Rs.15 lacs were given for maintenance. However, there are inconsistencies in the petitioners' claim. On the one hand, they are saying that Rs.20 lacs were given as a gift and maintenance, but on the other hand, they claim it was related to a company called JRD United Company Ltd. Additionally, the prime witnesses, Bharpur Singh and his Mukhtiar Kaur, who were present during the alleged promise, were neither examined by the investigating agency nor any inquiry has been made raising questions about their role in the transactions by the trial Court.

Moreover, Darbar Singh, gave money to the petitioners in 2010, but died in 2011, so he may now have known about any dishonest intentions. Though the complainant-Kulwinder Singh, was not a direct witness to the transaction, but the trial Court should have inquired further, especially once the advancement of Rs.20 lacs is established. Further more, while making promise to take the complainant and his paternal uncle (Darbara Singh) abroad by the petitioners, Mukhtiar Singh and his wife Manjit Kaur were also present there, but the trial Court did not examine them. The trial Court should have taken additional evidence but chose not to.

5. CONCLUSION

In the light of discussions made hereinabove, this Court is of the considered view that impugned order dated 03.05.2017 is a well reasoned order and the trial Court's decision to accept the cancellation report and dismiss the protest petition is not justified.

In the afore-said terms, both the petitions stands dismissed.

Pending criminal misc. Application, if any shall also stands disposed off.

09.02.2024
sham

(SANDEEP MOUDGIL)
JUDGE

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