



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-49352-2022
Reserved on 07.05.2024
Date of decision: 24.05.2024

JYOTI BHATIA

....Petitioner

Versus

MAMTA ARORA AND OTHERS

...Respondents

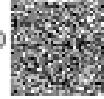
CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Viren Jain, Advocate
for the petitioner.

None for respondents.

KULDEEP TIWARI. J.(Oral)

1. Through the instant revision petition, under Sections 482 Cr.P.C., prayer is made for quashing of the order dated 06.09.2022 (Annexure P-5), passed in criminal revision bearing No.CRR No.118 dated 04.02.2015, and CNR No.PBLD01-001774-2015CRR, titled 'Mamta Arora Vs. Sheela Kumari and Others', by the Court of learned Additional Sessions Judge, Ludhiana, whereby, the revision petition filed by respondent No.1/complainant, against the order dated 14.11.2014 (Annexure P-1), passed by JMIC, Ludhiana, was accepted, and the



order *qua* the present petitioner, Jyoti Bhatia, was set aside, and matter was remanded back to the learned trial Court concerned, to re-appreciate the evidence, adduced by the complainant on record, and to pass a fresh order in accordance with law.

2. This is the second round of litigation, *qua* the same cause of action, therefore, facts are required to be dealt in detail. Respondent No.1/complainant, preferred a criminal complaint No.168 of 14.08.2013, against accused No.1 to 7, namely Mrs. Sheela Kumari, Mrs. Usha Rani, Mrs Jyoti Bhatia, Mrs. Darshan Rani, Joginder Dhingra, Harsh Dhingra, and Mrs. Sunita Devi, alleging therein that she is the grand-daughter of one Gobind Ram, who was the owner in possession of the house bearing No.B-6-804, measuring 82 square yards, situated at Taraf Saidan, within the abadi Harbanspura, Tehli, and District Ludhiana. It is further alleged that said Gobind Ram died on 07.11.2002, leaving behind accused No.1 and 2, and Subhash Chander, and Krishan Lal, as his legal heirs. Subhash Chander also died, intestate on 17.02.2011, leaving behind the complainant, accused No.3, and Indu Makkar, as his only surviving legal heirs, as the mother of the complainant died on 29.03.1986, and Krishan Lal also died, leaving behind the accused No.4, to 6, as his legal heirs. It is also alleged that after the death of late Shri Gobind Ram, Subhash Chander, and Krishan Lal, accused No.1 to 6, sold the aforesaid suit property, alleging themselves to be legal heirs of late Shri Gobind Ram to defendant No.7, vide sale deed dated 23.04.2012, registered with the Sub Registrar, Ludhiana (East), vide Vasika No.1659 dated 25.04.2012, by concealing the fact that the complainant, and Indu Makkar, were also the owners of the house to the extent of 1/12th share each, out of the entire house measuring 82 square



yards. It was further alleged that accused No.3 (present petitioner), dishonestly represented herself, as the only legal heir of late Subhash Chander in the sale deed, whereas, the complainant, and Indu Makkar were also legal Class-I heirs of late Subhash Chander.

3. On the basis of the above allegations, a complaint was instituted, however, learned Judicial Magistrate First Class, Ludhiana, vide order dated 14.11.2014, find it a case of civil nature, and proceed to dismiss the said complaint.

4. Having aggrieved with the dismissal of the complaint, respondent No.1/complainant, preferred a statutory revision, which was partly allowed, and the case was remanded back to the learned trial Court concerned, to pass a fresh order, after appreciating the evidence adduced by the complainant, vide order dated 27.02.2015.

5. This caused grievance to the present petitioner, and propelled him to file a **CRM-M-18710-2015**, titled as ***Jyoti Bhatia Vs. Mamta Arora and Others.*** The Co-ordinate Bench of this Court had set aside the order dated 27.02.2015, and remanded the case back to the Additional Sessions Judge, Ludhiana, vide order dated 08.11.2016, for deciding the criminal revision filed by the respondent No.1- Mamta Arora, after giving adequate opportunity of hearing to the petitioner (Jyoti Bhatia) in accordance with law.

6. On remand, the learned Revisional Court concerned, after providing adequate opportunity to the petitioner, partly allowed the revision petition, vide order dated 06.09.2022, preferred by respondent No.1/complainant, and set aside the order, and matter was remitted back to the learned trial Court concerned, to



appreciate the evidence adduced by the complainant, on the record, and to pass a fresh order, in accordance with law.

7. The order (supra), caused grievance to the petitioner, and she has now filed the instant revision petition, under Section 482 Cr.P.C. before this Court.

8. On asking for the relief (supra), learned counsel for the petitioner submits that the learned Revisional Court, has totally ignored the fact that the instant dispute is of civil nature, whereas, in order to exert pressure upon the present petitioner, a short cut method has been adopted, and instant criminal complaint has been filed, without getting their rights adjudicated by the learned Civil Court concerned.

9. Learned counsel for the petitioner further submits that the petitioner as well as the complainant both have filed the civil suit, which are pending adjudication before the learned trial Court concerned. Learned counsel for the petitioner also submits that unless and until the civil right in property is decided, the initiation of criminal proceedings by respondent No.1/complainant is in fact an abuse of the process of law.

10. Learned counsel for the petitioner in addition submits that the complainant has no right, as petitioner is the only natural born daughter of Sh. Subhash Chander & Smt. Chanchal Rani, and the respondent No.1-complainant, and Indu Makkar, were neither born from Sh. Subhash Chander & Smt. Chanchal Rani wedlock, nor they have lived in the family of Sh. Subhash Chander & Smt. Chanchal Rani, rather they lived as daughters, and were brought up in the family of maternal grand parents of the petitioner.

11. Learned counsel for the petitioner over and above submits that



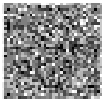
respondent No.1-complainant, and Indu Makkar, never participated in any of the family and domestic affairs, and even did not attended the last rites of Sh. Subhash Chander, and Smt. Chanchal Rani, and therefore, question of any misrepresentation, and concealment of execution of the sale deed does not arise at all.

12. This Court has considered the submissions made by learned counsel for the petitioner, however, is unable to accept the same.

13. On the perusal of the petition, it transpired that the respondent No.1-complainant, had filed a civil suit bearing No.CS/48745/2013, for declaration in respect of the same subject matter, seeking declaration that she is the owner of 1/12th share in the said property. The said civil suit preferred by the respondent No-1-complainant, petitioner was proceeded against *ex parte* on 02.02.2017, and an application seeking setting aside of the *ex parte* decree, is now pending consideration before the learned Civil Judge (Jr. Div.) Ludhiana. Even the suit preferred by the present petitioner to declare herself as the only legal heir of late Sh. Subhash Chander is also pending consideration before the learned Civil Court concerned.

14. Mainly pendency of the civil suit, does not give right to the petitioner to seek quashing of the impugned order, and the complaint, as both civil and criminal liability can be adjudicated simultaneously.

15. The allegations against the present petitioner are that she claims herself to be the only legal daughter of late Sh. Subhash Chander & Smt. Chanchal Rani, and with this bogus intention, executed the sale deed, whereas, she is only entitled to the sale deed *qua* 1/12th share, therefore, *prima facie*, it is case which



falls under Section 420 of IPC.

16. Next issue which is raised by learned counsel for the petitioner is that, she is the only legal heir of late Sh. Subhash Chander & Smt. Chanchal Rani, is purely a disputed question of fact, which cannot be adjudicated by this Court, under the proceedings of Section 482 Cr.P.C.

17. Further from the pre-summoning evidence, as adduced by the complainant, it *prima facie* transpires that the petitioner in order to take wrongful gain, concealed the material fact, by executing sale deed, and represented herself as the sole legal heir of late Sh. Subhash Chander (deceased). Therefore, finding sufficient evidence, the learned Revisional Court concerned, has rightly set aside the order of the learned trial Court concerned, *qua* the petitioner, and remanded back the case, for deciding afresh.

18. In view of the above facts, and circumstances of the case, this Court does not find any illegality, or perversity in the order passed by the learned Revisional Court concerned. Therefore, the instant petition is ordered to be **dismissed**.

24.05.2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No