

(1997) 08 P&H CK 0018

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Writ Petition No. 1281 of 1995

Satbeer Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Aug. 20, 1997

Acts Referred:

- Constitution of India, 1950 - Article 226
- Penal Code, 1860 (IPC) - Section 120B, 419, 465, 467, 468

Citation: (1998) CriLJ 629 : (1997) 4 RCR(Criminal) 679

Hon'ble Judges: S.C. Malte, J

Bench: Single Bench

Advocate: P.P.S. Duggal, for the Appellant; G.A.S. Maan, D.P. Singh and H.S. Lalli, D.A.G., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

S.C. Malte, J.

The petitioner has filed this writ petition under Article 226 of the Constitution and sought stay of the criminal case initiated on the basis of FIR No. 60 dated 8-11-1991, under Sections 419 465 467 468 471 read with Section 120-B, I.P.C. Police Station City Fazilka, untill decision in the civil suit pending between the parties. That civil suit has been filed by Sarvinder Singh, complainant in the FIR, against the petitioner and others for getting a declaration that the said Sarvinder Singh (complainant) has become the owner in possession of the various properties left behind by deceased Heera Devi, and that the present petitioner and others (who are defendants in that civil suit) should be permanently restrained from interfering with the peaceful possession of the plaintiff of the land in question. Incidentally, it may be mentioned that land in dispute in criminal case is also included in the civil suit. The civil suit, however, covers few more lands with which I am not concerned. In that civil suit,

plaintiff Sarvinder Singh (complainant) relies on a will executed in his favour by Heera Devi deceased. In that suit he has not referred to the document dated 5-4-1991 by which the present petitioner is said to have purchased the tenancy rights from Harnam Singh who is said to be cultivating the land as a tenant of Smt. Rajinder Kaur, the grandmother of the petitioner.

2. Briefly stated, therefore, the document dated 5-4-1991 is not the subject-matter for consideration in the suit filed by the complainant. The complaint, however, pertains to the forgery of that document dated 5-4-1991. The suit has been filed on 13-6-1991. The First Information Report has been filed on 3-11-1991.

3. Thus, the question for determination is whether in this case criminal proceedings should be stayed until the decision of the civil suit.

4. The submission by the counsel for the petitioner is that since the civil suit and the criminal case pertain to the same property, the decision in the criminal case should await till the disposal of the civil suit. According to him, simultaneous progress of both these matters would cause embarrassment to him while leading the evidence. In support of his contention, he relied on a decision by me in case of Santokh Dass v. State of Punjab 1991 (1) RCC 262. He also cited the case of Sardool Singh v. Smt. Nazib Kaur 1987 P L R 633. Both these rulings are not applicable to the facts of the present case for the simple reason that in this case the civil litigation and the criminal litigation involves altogether different issue. In the civil suit the issue pertains to genuineness and legality of a will executed by Heera Devi. On the other hand, the complaint pertains to forgery of a document dated 5-4-1991 and allegation of deception on the basis of that document.

5. On proper reading of the. plaint, I find that the success of the civil suit filed by Sarvinder Singh solely depends on the genuineness, legality and validity of the will executed by Heera Devi long back in 1952. If he fails to get the property on the basis of that will, it would follow that Heera Devi died intestate. In that eventuality the question would arise whether share of property of Heera Devi would fall to the share of the Rajinder Kaur. It is thereupon that the question of inheritance of the property of Rajinder Kaur, in one way or the other, would arise, and then the question of share of petitioner would arise. In the civil suit filed by Sarvinder Singh, he has not referred to the aforesaid document dated 5-4-1991. He has, however, made a grievance that the petitioner has started claiming a share in the said property on the basis of some will executed by the said Smt. Rajinder Kaur (since deceased) who is sister of Sarvinder Singh the complainant. Moreover, it is pertinent to note that the petitioner has also filed Criminal Misc. No. 3846-M of 1993 in which he had prayed for the quashing of the same FIR No. 60 dated 8-11-1991, filed by Sarvinder Singh. That petition has been disposed off by me on 6-8-1997. In para 9 of that petition the petitioner has in clear words stated that the document executed on 5-4-1991 has not been acted upon. Thus, I find that the petitioner has already taken certain stand in respect of document dated 5-4-1991 which is the subject-matter of

the criminal case, but not the subject-matter of the civil suit. Further, the contents of order Annexure P-2 indicates that the petitioner has already appeared in the civil suit and has filed written statement in reply to the interim injunction application filed in that suit. Under these circumstances, I find that there is no question of any embarrassment to the petitioner if both the proceedings proceed simultaneously. In the result, the petition is dismissed.