

Major Singh and ors. Vs. State of Punjab

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Court : Punjab and Haryana

Decided On : Sep-02-1985

Reported in : 1986CriLJ303

Judge : Surinder Singh, J.

Appellant : Major Singh and ors.

Respondent : State of Punjab

Advocate for Pet/Ap. : Mr. P.C. Mehta

Judgement :

ORDER

Surinder Singh, J.

1. This petition has been filed under Section 482, Code of Criminal Procedure, with a prayer for quashing of First Information Report No. 522, dated Dec. 31, 1982, of Police Station Shahkot, Tehsil Nakodar, District Jullundur, and the consequential proceedings before the Judicial Magistrate First Class, Nakodar, in which the said Court in the case, State v. Major Singh framed charges under Sections 419, 465, 468 and 471, Indian Penal Code, against all the petitioners.

2. The averments made in the petition may be, briefly, noticed. It is stated that Major Singh and Banta Singh, petitioners Nos. 1 and 2 purchased agricultural land

from one Gurdit Singh, son of Hukam Singh deceased, resident of village Poonian, Tehsil Nakodar, District Jullundur, by means of two separate Sale Deeds, dated August 8, 1979 and August 9, 1979, for a consideration of Rs. 7,000/- each. Each of the two petitioners aforesaid had purchased 5 Kanals and 17 Marias, i.e. 1/2 share of the total land measuring 11 Kanals and 14 Marias, particulars whereof have been mentioned. Faqir Singh Lambardar petitioner No. 3 and Jit Singh petitioner No. 6 identified the vendor Gurnam Singh and the Sale Deeds were registered by the Sub-Registrar, on August 10, 1979. The petitioner-vendees took possession of the land purchased by them by means of the two Sale Deeds. The mutations in respect of the two sales were also sanctioned in favour of the said petitioners Nos. 1 and 2, by the Revenue Officer vide Mutation Nos. 2444 and 2445, dated September 19, 1979.

3. It transpires that Gurnam Singh vendor expired on September 11, 1979. Thereafter, the legal heirs of Gurnam Singh i.e. his sons and a daughter, namely, Teja Singh, Ranbir Singh, Avtar Singh (minor), Nirmal Singh (minor) and Surinder Kaur (minor) along with Surjit Kaur widow, filed a civil suit in the Court of Subordinate Judge, First Class, Nakodar, against petitioners Nos. 1 and 2, for a declaration that the two petitioners had no right, title or concern with the land in question and that on the date when the Sale Deeds were registered, i.e. August 10, 1979, Gurnam Singh vendor was not alive, as he had expired on August 6, 1979. The suit was contested by petitioners Nos. 1 and 2 and the Court trying the same, framed a number of issues to cover the points in controversy. The two crucial Issues are as follows:

(vi) Whether the said Gurnam Singh expired on 6-3-1979? OPP

(vii) Whether the said Gurnam Singh executed the sale deed dated 8-8-79 and 9-8-79? If so, its effect? OPD

4. During the pendency of the abovementioned civil suit, one of the legal heirs of Gurnam Singh vendor, namely, his son Ranbir Singh lodged a complaint at Police Station Shahkot, District Jullundur, against the petitioners on Nov. 27, 1980, and First Information Report No. 522, was registered on Dec. 31, 1980, to which a reference has already been made. Copy of this First Information Report has been

annexed as Annexure P/1 to the petition.

5. Reverting to the history, in so far as the civil litigation is concerned, it is averred in the petition that the suit filed by the legal heirs of Gurnam Singh vendor was dismissed by the Subordinate Judge, First Class, Nakodar, by means of judgment and decree, dated March 3, 1982. In regard to the points covered by the two Issues reproduced above, the trial Court held that Gurnam Singh had died on August 11, 1979, and not on August 6, 1979, as alleged by the heirs. Regarding the Sale Deed, the trial Court held that Gurnam Singh had executed the Sale Deeds on August 8, 1979, i.e. before his death. A copy of the judgment of the trial Court, dated March 3, 1982, has been attached as Annexure P/2 to the petition. The appeal filed by the plaintiffs against the aforesaid judgment and decree was dismissed by the Additional District Judge, Jullundur, vide judgment, dated April 27, 1984, copy whereof has been produced as Annexure P/3. The learned Additional District Judge held that the plaintiffs had failed to establish that Gurnam Singh had died on August 6, 1979 and further that it was not established if there was any cheating or forgery at the time of the execution of the Sale Deeds. The appellate Court, thus, affirmed the verdict of the trial Court. The plaintiffs thereafter preferred a Regular Second appeal (R.S.A. No. 2268 of 1984) in this Court, which was dismissed by S.S. Sodhi, J. in limine on Oct. 31, 1984.

6. The criminal proceedings launched against the petitioners by means of the First Information Report reached the court of the Judicial Magistrate First Class, Nakodar, who framed charges under Sections 419/465/468/ 471, Indian Penal Code, against the petitioners on May 16, 1985. A copy of the Charge-sheet has been attached as Annexure P/5. The legality of the Charge-sheet and the proceedings arising out of the First Information Report in the Court of the Judicial Magistrate were challenged on various grounds, enumerated in the petition and a prayer was made for the quashing of these proceedings, in order to prevent the abuse of process of law and to secure the ends of justice.

7. Notice of the petition was issued in this case to the respondent-State of Punjab, and the learned Counsel for both the parties have addressed the arguments at considerable length. Obviously, the only point which falls for consideration is, as to

whether the criminal Court which was seized of the case against the petitioners and which had framed a Charge-Sheet against them for various offences relating to acts of impersonation, forgery etc. can proceed with the case, in spite of the final three-tier verdict of the civil Courts, culminating with the dismissal of the Regular Second Appeal by this Court, on the very points which are the subject-matter of the Charge-sheet in the criminal case. In this behalf, Mr. P.C. Mehta, learned Counsel for the petitioners has placed strong reliance on *Karamchand Ganga Parshad v. Union of India* : 1971 CriLJ1072 , wherein it was observed that 'It is a well established principle of law that the decisions of the civil Courts are binding on the criminal Courts. The converse is not true.' In this case, a Division Bench of Delhi High Court after elaborately hearing the arguments in a writ petition under Art, 226 of the Constitution of India, rejected the Writ Petition on the sole ground of that in view of the pendency of the criminal proceedings before some Courts, it would be inappropriate for the High Court to pronounce on the questions arising for decision in the Writ Petition. Their Lordships of the Supreme Court held that the High Court had seriously erred in coming to this conclusion. The appeals were, therefore, allowed by the Supreme Court and the cases were remitted to the High Court, for disposal on merits, with observations which have already been noticed.

8. Mr. Mehta, also placed reliance upon *Rajendra Kumar Ruia v. State of West Bengal* 1969 Cri LJ 243, a Single Bench decision of the Calcutta High Court, wherein it was held that if the civil proceedings had terminated determining the civil rights in favour of the accused, the criminal proceeding must be dropped since its continuation would be an abuse of the process of the Court.

9. As against these authorities, the learned State counsel has sought support from *Harchandi v. State of Haryana* (1982) 2 Chand LR (Cri) 250, a Single Bench decision of this Court. This authority is absolutely distinguishable on facts and it would not be justifiable to extract the single sentence in para 9 of the judgment, reproduced below, to lay down a general proposition of law.

Otherwise also there is no bar for a civil Court and criminal Court coming to a different finding on the same facts.

A closer reading of the relevant portion would indicate that the above observations were made in the context of consideration of the validity and genuineness of a Gift Deed. Another authority relied upon by the learned State counsel is B.N. Kashyap v. Emperor AIR 1945 Lah 23 : 46 Cri LJ 296, a Full Bench decision of that Court. The following observations of the Full Bench are relevant to the point under discussion:

There is no reason in my judgment as to why the decision of the civil Court particularly in an action in personam should be allowed to have that sanctity. There appears to be no sound reason for that view. To hold that when a party has been able to satisfy a civil Court as to the justice of his claim and has in the result succeeded in obtaining a decree which is final and binding upon the parties, it would not be open to criminal Courts to go behind the findings of the civil Court is to place the latter without any valid reason in a much higher position than what it actually occupies in the system of administration in this country and to make it master not only of cases which it is called upon to adjudicate but also of cases which it is not called upon to determine and over which it has really no control.

The above observations do support the contention on behalf of the respondent-State, but in the wake of the decision of the Supreme Court in Karamchand Ganga Pershad's case 1971 Cri LJ 1072 (supra) the law must be taken to have been finally enunciated.

10. The result is that the action initiated in consequence of First Information Report No. 522, dated Dec. 31, 1982, in the Court of the Judicial Magistrate First Class, Nakodar, and the Charge-Sheet (Copy Annexure P/5) framed against the petitioners and all other proceedings in the case, are hereby quashed, being an abuse of the process of Court. The present petition is disposed of accordingly.