



**126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-62648-2024
Date of decision: 20.01.2025**

Sukhmander SinghPetitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Manpreet Singh, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Senior DAG, Punjab.

RAJESH BHARDWAJ, J.

1. Petitioner has approached this Court praying for quashing/setting aside the order dated 20.01.2024 passed by Sub Divisional Judicial Magistrate, Jaitu vide which the charges were framed against the petitioner as well as quashing/setting aside the order dated 28.11.2024 vide which the criminal revision petition has been dismissed arising out of case bearing FIR No.7 dated 28.01.2023, under Sections 417, 419, 465, 466, 467, 468, 471 and 120-B of IPC, registered at Police Station Jaitu, District Fairdkot.

2. Succinctly facts of the case are that the FIR in the present case was lodged by Sukhdev Singh wherein it was alleged that the wife of Sukhmander Singh @ Chhinda (petitioner) died in the year 2019. However, Sukhmander Singh @ Chhinda by concealing the factum of the death of his wife produced one unknown lady in place of his wife Rajwinder Kaur and in connivance with Nambardar Pappu Singh, witness Harjeet Singh and Deed Writer Advocate Raj Kumar got executed a transfer deed No.2548 dated 19.02.2020 in his favour. Thus, by



committing fraud, he has got the transfer deed executed. Hence, request was made to take action against the culprits. On registration of the FIR, investigation commenced. The investigating agencies on completion of the investigation, filed a challan before the trial Court. Learned trial Court finding a *prima facie* case against the petitioner framed the charges vide impugned order dated 20.01.2024. Aggrieved by the same, petitioner assailed the same by way of filing the revision petition before the learned Sessions Judge, Faridkot. However, finding no merit in the same, the revision petition filed by the petitioner was dismissed by the Revisional Court vide impugned order dated 28.11.2024 and thus, both the trial Court and the Revisional Court have given a concurrent finding against the petitioner. Aggrieved by both these orders, petitioner has approached this Court by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that the impugned orders have been passed by both the Courts without application of judicious mind. He submits that mother of the petitioner, Jaswinder Kaur was in ownership and possession of 5 marlas house and she transferred that house to the wife of petitioner-Rajwinder Kaur who unfortunately expired on 20.11.2019. After her death, petitioner was in possession of this 5 marla house. Petitioner thereafter, got transfer deed of this house in his favour. He submits that after the death of his wife, petitioner was legal owner of this house by succession. Thus, the FIR is not even maintainable. He submits that neither the complainant has any relation nor any interest involved in this 5 marla house. He submits that the FIR has been lodged with a *mala fide* intention and thus, the prosecution of the petitioner is nothing but an abuse of the process of the



Court. Thus, there being no *prima facie* case having been made out against the petitioner, the impugned order wherein the charges have been framed against the petitioner are totally unsustainable in the eyes of law. He thus, submits that the petition be allowed and the impugned order be quashed.

4. Learned State counsel has filed the reply by way of an affidavit of Mr. Sukhdeep Singh, PPS, Deputy Superintendent of Police, Sub Division Jaitu, District Faridkot which is taken on record. He has opposed the submissions made by counsel for the petitioner. He has submitted that wife of the petitioner admittedly died on 20.11.2019. As per the statement made by the complainant, the transfer deed was the result of impersonation. He submits that the property of the deceased wife of the petitioner was to be devolved upon all her legal heirs including three children but the petitioner with dishonest intention had defeated the rights of other LRs of his deceased wife by hatching the conspiracy. He has produced his relative Harwinder Kaur wife of Joginder Singh in place of his deceased wife before the Sub Registrar and got transferred the entire house of the deceased in his name. He submits that he had committed a cognizable offence and after investigation, the FIR was lodged and the same is sustainable. He thus, submits that there being no illegality in the impugned orders, petition deserves to be dismissed.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the wife of petitioner namely, Rajwinder Kaur died on 20.11.2019, who was the owner of the disputed house. This property was to be devolved upon her legal heirs however, the transfer deed No.2548 dated 19.02.2020 was got executed wherein the petitioner had allegedly



produced one another lady in place of his wife who already expired in the year 2019. On investigation by the police, the allegations made in the FIR were substantiated and hence, the challan under Section 173 Cr.P.C. was filed. Learned Appellate Court finding a *prima facie* case, framed the charges by passing the impugned order dated 20.01.2024 This order was further upheld by the Revisional Court vide impugned order dated 28.11.2024. The main issue involved in the present case is whether the impugned orders are legally sustainable. Needless to say that as per the law settled, at the time of framing of the charges, the trial Court is not to sift the evidences to appreciate the material produced before it by the prosecution and decide whether a *prima facie* case is made out or not. The material being of sufficient nature in making out a *prima facie* case, the trial Court framed the charges and no illegality was found by the Revisional Court. Whether the complainant at whose behest the FIR is lodged had any interest in the property or not is immaterial as offence alleged to have been committed is cognizable offence.

6. Hon'ble the Supreme Court in ***Bhawna Bai Vs. Ghanshyam, 2020(1) RCR (Criminal) 370*** has held as under:-

“12. Though the circumstances alleged in the charge sheet are to be established during the trial by adducing the evidence, the allegations in the charge sheet show a prima facie case against the accused-respondent Nos.1 and 2. The circumstances alleged by the prosecution indicate that there are sufficient grounds for proceedings against the accused. At the time of framing the charges, only prima facie case is to be seen; whether case is beyond reasonable doubt, is not to be seen at this stage. At the stage of framing the charge, the court has to see if there is sufficient ground for proceeding against the accused. While evaluating the



materials, strict standard of proof is not required; only prima facie case against the accused is to be seen.”

7. Hon'ble Division Bench of the Supreme Court in *Manendra Prasad Tiwari Vs. Amit Kumar Tiwari, 2022 SCC Online SC 1057*, has held as under:-

“22. The scope of interference and exercise of jurisdiction under Section 397 of CrPC has been time and again explained by this Court. Further, the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage the final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of Code of Criminal Procedure.

8. On appreciating the facts and circumstances of the present case on the anvil of the law settled, this Court does not find any infirmity in the impugned orders passed and hence, the present petition stands dismissed. However, it is being clarified that nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

20.01.2025
m. sharma

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