

PUNJAB AND HARYANA HIGH COURT

State

Vs

Sham Singh of Haryana

(R.C.Kathuria,J.)

09.11.2001

JUDGEMENT

R.C.Kathuria,J

(1.) SHAM Singh, petitioner, seeks quashing of First Information Report No. 379 dated 24.11.1992 registered under Sections 467, 468, 420 and 120-B of the Indian Penal Code with Police Station, Nissing and the subsequent proceedings taken thereon.

(2.) IN order of get a clear picture of the controversy involved in this petition, a few facts have to be noticed. First Information Report was lodged by Lachhman Singh son of Cheta resident of village Gonder, Tehsil and District Karnal. It was stated therein that he owned 123 Kanals 15 Marlas of land comprising 2479/8624th share of land of Khewat No. 175/170, Khatauni Nos. 434, 435, 436 and 437 situated in Village Gonder. Out of this land Lachhamn Das had sold 10 Kanals of land to his brother, Baru Ram, and 24 Kanals to the sons of his brother, namely, Darshan Singh, Kaltar Singh, Patawar Singh, Bhim Singh, Janak Singh and Ilam Singh. In this manner, he was left with 89 Kanals and 15 Marlas of land out of the above mentioned land. It is further stated in the report that Pritam Singh, accused No. 2 in connivance with Mohinder Singh-accused No. 1, who is son of the complainant and is a simple minded person had got a suit for partition filed by Mohinder Singh against him in order to get his share in the property separated. That suit for partition was resisted by the complainant-Lachhman Singh. Said Mohinder Singh, in the mean time, filed another Civil Suit No. 451 of 1991 titled as Mohinder Singh v. Lachhman Singh against Lachhman Singh in connivance with Pritam Singh praying for decree for declaration to the effect that Mohinder Singh was the owner in possession of the land to the extent of 103 share out of 2475 shares of Lachhman Singh out of the total land measuring 431 Kanals 4 Marlas situated in Village Gonder, Tehsil and District Karnal as per jamabandi for the year 1986-87. That suit was decreed in favour of Mohinder Singh on the basis of admission in written statement and the statement recorded in the Court admitting the claim of Mohinder Singh by the Senior Sub Judge, Karnal on 18.9.1991. When Lachhman Singh came to know about this decree, he made enquiries and found that Sham Singh, petitioner-accused had impersonated him

in the Court and made a statement and put his thumb impression on it and the Court accepted his statement and passed the decree in favour of Mohinder Singh. On the basis of these allegations, the case was registered under Sections 467, 468, 420 and 120-B I.P.C. When the Police took up the investigation of the matter, the petitioner secured anticipatory bail as per order dated 9.1.1993 from the Court of Additional Sessions Judge, Karnal. Thereafter, he filed the present petition seeking quashing of the aforesaid FIR.

(3.) I have heard counsel for the parties. Learned counsel for the petitioner has made two-fold submissions before me which according to him fully justify quashing of FIR No. 379 dated 24.11.1992 registered against the petitioner-accused. Firstly, that the alleged statement of Mohinder Singh, for whom, the petitioner is stated to have impersonated on 18.9.1991, was recorded by the Court and there being no complaint made by the Court for the registration of a case, criminal proceedings in the form of registration of the FIR could not be initiated in view of the complete bar contained in Sections 195 and 340 of the Code of Criminal Procedure (hereinafter referred to as 'the Code'). Reliance was placed in this regard on the case *Sardul Singh v. The State of Haryana*¹, Secondly, it was submitted that a civil suit has already been filed by Lachhman Singh, wherein decree passed in Civil Suit dated 18.9.1991 has been challenged being a fraudulent decree and for that reason during the pendency of civil suit, no parallel criminal proceedings could be launched or taken against the petitioner-accused. In support of this contention reference was made to the cases *Ajmer Singh and others v. The State of Punjab*, 1988 Chandigarh Criminal Cases 496; *Surat Singh and another v. Dalwinder Singh and others*, 1989 Chandigarh Criminal Cases 532; *Tek Chand and others v. State of Haryana and others*, 1990(1) Chandigarh Criminal Cases 386; *Bal Kishan Das v. P.C. Nayar*, 1991(3) *Recent Criminal Reports* 374 (SC) and *M/s Karam Chand Ganga Parshad and another v. Union of India and others*²,

Cases Referred.

¹ 1992 Criminal Law Journal 354

²AIR 1971 S.C. 1244