



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: February 18, 2025

Pronounced on: May 23, 2025

+ **CRL.M.C. 327/2017, CRL.M.A. 3139/2017, CRL.M.A. 138/2019,**
CRL.M.A. 37732/2024 & CRL.M.A.1434/2017

HARKIRAT SINGH SODHI

S/O MR. M. S. SODHI,

R/o 210-A, GOLF LINKS,

NEW DELHI-110003

.....Petitioner

Through: Mr. Lalit Gupta, Mr. Suyash &
Mr. Rajat Asija, Advocates

Versus

1. STATE OF NCT OF DELHI

THROUGH SHO,
PS DARYA GANG
DELHI-110002

2. MRS. AMITA GANDOAK,

W/O MR. RAVINDER GANDOAK,
R/O M-77, GREATER KAILASH-1,
NEW DELHI-110048

3. THE SUB-REGISTRAR

ASAF ALI ROAD,
NEW DELHI

.....Respondents

Through: Mr. Nawal Kishore Jha, Ld. APP for
the State

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T



NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) read with Article 227 of Constitution of India has been filed by the Petitioner, Harkirat Singh Sodhi, against the Order dated 21.01.2017 of the Ld. Additional Session Judge, Special Judge, **whereby** the Order dated 01.07.2016 passed by the Ld. Metropolitan Magistrate, dismissing the Application under Section 156(3) Cr.P.C. of the Respondent No.2, has been set aside, and directions have been given for Registration of FIR against the Petitioner, Harkirat Singh Sodhi.

2. ***Briefly stated***, a Complaint under Section 200 Cr.P.C. dated 05.08.2014 was filed by Respondent No.2, Amita Gandaok, wherein she asserted that her mother, Late Sardarni Surinder Kaur Sodhi had died on 31.12.2013, leaving behind her hand written last Will and Testament dated 07.09.2004 as per which the House bearing No. 210A, Golf Links, New Delhi was bequeathed equally to the Complainant and her brother, Harkirat Singh Sodhi, the Petitioner herein.

3. Respondent No.2, Amita Gandoak, in her Complaint further asserted that her mother during her life time, had written an earlier Will dated 13.01.1987, by virtue of which the above noted property had been bequeathed solely to her brother, Harkirat Singh Sodhi. However, because of constant ill treatment by her brother, Harkirat Singh Sodhi, she revoked her earlier Will dated 13.01.1987 *vide* Revocation Deed dated 05.06.2004, which was registered at Sub Registrar's Office at Asaf Ali Road, New Delhi *vide* Registration No. 7941, in Book No.III, Volume No. 1398, Pages 156 to 156.



4. Pursuant to such Revocation, she executed a fresh Will dated 07.09.20024 wherein the factum of Revocation of earlier Will dated 13.08.1987 is also mentioned. Moreover, this last Will dated 07.09.2004 was known to the entire family including her brother- Harkirat Singh Sodhi.
5. On 22.04.2014, Petitioner Harkirat Singh Sodhi filed a Probate Petition bearing *Test Case No.38/2014* in this Court seeking Probate of the earlier Will dated 13.08.2017, concealing the registered Revocation Deed dated 05.06.2004. The Complainant also filed Probate Case i.e. Test Case No. 42/2014, seeking probate of the last Will dated 07.09.2004.
6. While the two Probate Cases were pending, the Complainant confronted her brother, Petitioner, Harkirat Singh Sodhi, about the fact of his Will being a revoked one, on which he threatened that he would made the Revocation Deed go missing from the Office of the Sub Registrar.
7. The Respondent No.2/Complainant, Amita Gandoak, immediately applied for certified copy of the Revocation Deed, in the Office of Sub Registrar, Asaf Ali Road and also reported the threat given by Petitioner Harkirat Singh Sodhi to Police Station, Tuglak Road, New Delhi, *vide* Complaint dated 14.05.2014.
8. The fear of the Complainant came true when she received a Letter dated 26.04.2014 from the Office of Sub Registrar, Asaf Ali Road, informing her that the registered Revocation Deed dated 05.06.2004 was not traceable in their Office, though the Peshi Register categorically reflected that the said documents was duly executed by the mother of the Complainant.



9. Immediately upon receiving this Reply, the Complainant filed another Complaint on 04.07.2014 with the Police Station Tuglak Road, Delhi stating that the accused persons have colluded and indulged in criminal conspiracy against her in order to illegally enrich them and to deny the Complainant, Amita Gandoak, her legitimate rights in her mother's property. Complainant, Amita Gandoak thus, filed the Complaint under Section 200 Cr.P.C., accompanied with Application under Section 156 (3) Cr.P.C. seeking directions for registration of the FIR.

10. The Ld. MM in his detailed Order dated 01.07.2016, observed that the ingredients of Section 420 Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) are missing in the Complaint dated 05.08.2014. Ld. MM further observed that Section 477 IPC is not a cognizable offence and no directions for registration of FIR can be given in respect of non-cognizable offence. Moreover, none of the evidence in the present case is beyond the reach of the Complainant, Amita Gandoak. Also, if any enquiry or investigation is required, that can be done under Section 200 Cr.P.C., at a later stage. Consequently, the Application under Section 156(3) Cr.P.C. was dismissed.

11. Aggrieved by the dismissal of the Application under Section 156(3), the Complainant, Amita Gandoak, preferred a *Criminal Revision Petition No. 13/2016*, whereby before the learned Additional Session Judge, in the *Impugned* Order dated 21.07.2017 observed that a document going missing is a valuable document and the accountability of the same can be fixed on the concerned official only through police investigation. It was thus, directed that the FIR be registered on the Complaint made by Respondent No.2, Amita Gandoak.



12. Being aggrieved, the present Petition has been filed by Petitioner- *Harkirat Singh Sodhi* to challenge the Order dated 21.01.2017 of Ld. Additional Session Judge directing registration of the FIR.

13. ***The Petitioner- Harkirat Singh Sodhi has claimed*** that his sister, Amita Gandoak and her family members have history of forgery and cheating. In *Civil Suit bearing No. CS (OS) No. 82/2005*, this Court had held that the Will propounded by the husband of Respondent No.2, Amita Gandoak in that case, was held to be a forged document. Respondent No.2, Amita Gandoak has also forged the signatures of her deceased mother on the cheques thereby withdrawing huge sums of money. *FIR No. 149/2014*, under Sections 420/468/471/120B IPC was registered at Police Station Tuglak Road.

14. It is further asserted that the previous Complaints/ pleadings filed by Respondent No.2, Amita Gandoak are full of contradictions. The dispute arose on/ around 31.03.2014. On 19.09.2016, in her pre-summoning evidence in yet another *Complaint Case No. 183/1A/14*, pending in the Court of Ld. Metropolitan Magistrate, she has stated that “*while going through her (deceased testatrix's) cupboards, we (Petitioner & Respondent No. 2) discovered the original registered Revocation Deed dated 05.06.2004.....*”

15. It is further asserted that the Respondent No.2/Complainant, Amita Gandoak has already filed another *Criminal Complaint Case No. 280/1/2014* along with Application under Section 156(3) Cr.P.C. in the Court of Ld. MM, which has also been dismissed *vide* Order dated 12.06.2015 and the *Criminal Revision Petition No. 93/2015* against the said



Order has also been dismissed by the Ld. Additional Session Judge on 12.08.2015.

16. The Petitioner, Harkirat Singh Sodhi has asserted that the impugned Order dated 21.01.2017 directing registration of the FIR is bad, perverse and unsustainable.

17. The ***grounds on which the Order has been challenged*** are that the Revocation Deed dated 05.06.2004 is already a subject matter of adjudication before this Court in Probate Petitions filed by the Complainant as well as the Petitioner, Harkirat Singh Sodhi. It has not been appreciated that the photocopy of the Revocation Deed dated 05.06.2004, has already been filed in the Probate Petitions and it can be proved in accordance with law.

18. The Ld. Additional Session Judge has erroneously observed that investigations can only be done by the Police with the aid of scientific and forensic investigation, inasmuch as it is not understandable as to what kind of scientific and or forensic investigation is required for the missing document.

19. Furthermore, once the Respondent No.2, Amita Gandoak has stated that she has seen the original Revocation Deed dated 05.06.2004, what was her need to apply for the Certified Copy. It has not been considered that the Complainant has been filing various Complaints to various Police Authorities. Grave injustice would be caused to the Petitioner if the impugned Order dated 21.01.2017, is not set aside.

20. ***Respondent No.2/Complainant filed a Reply*** wherein she took a *preliminary objection* that the present Petition was a total misuse and abuse



of the process of law. The contents of the Petition to the extent they are inconsistent with the submissions made herein in the Reply, are incorrect and denied; unless any averment or contention is specifically admitted or traversed, the same may be treated as denied.

21. Respondent No. 2, Amita Gandoak, narrated the entire facts as stated in her Complaint. **On merits**, she has reiterated that the Ld. Additional Session Judge has directed for registration of the FIR on valid reasons. It is asserted that there is no infirmity in the Impugned Order dated 21.01.2017 and the present Petition is liable to be set aside.

22. *Submissions were advanced by both the parties and written submissions were also given, which have been considered.*

23. It is not in dispute that Late Sardarni Surinder Kaur Sodhi, mother of the Complainant, Amita Gandoak and the Petitioner, Harkirat Singh Sodhi had left a registered Will dated 13.01.1987 in respect of which the Probate proceedings have been filed by the Petitioner. The case of the Complainant that because of the conduct of the Petitioner, Harkirat Singh Sodhi, the mother revoked this earlier Will *vide* Revocation Deed dated 05.06.2004 and prepared a hand written Will dated 07.09.2004, which in fact is last and final Will of their mother. She also has filed the Probate proceedings in respect of her second Will dated 07.09.2004.

24. It is a case which is not in denial that a registered Revocation Deed dated 05.06.2004 was duly registered by the mother, Late Sardarni Surinder Kaur Sondhi. According to the Complainant, she had the original registered Revocation Deed dated 05.06.2004, as has been stated by her in her testimony recorded on 19.09.2016 in her Complaint case No. 10/1/15.



25. She has even filed the copy of the Revocation Deed dated 05.06.2004 in the Probate proceedings. Once Respondent No.2, has stated that she is in possession of a copy of the Revocation Deed dated 05.06.2004, even if it is stated to be not available in the Office of the Sub-Registrar, would not take away the genuineness of the Revocation Deed dated 05.06.2004, especially when it also finds a mention in the **Peshi Register** of the Sub Registrar's office. Whether the Revocation Deed dated 05.06.2004, has got genuinely misplaced or there is any mischief by the Officials of Sub- Registrar's office, is of little consequence to the interse litigation between the Parties as the copy of the Revocation Deed dated 05.06.2004 is already in power and possession of Respondent No.2, Amita Gandoak.

26. The Ld. Additional Session Judge, therefore, fell in error in directing the registration of the FIR to trace out who in the Sub Registrar's office is responsible to make the Revocation Deed dated 05.06.2004 go missing. This is not even relevant for the purpose of the dispute *inter se* the brother and sister, especially when the Revocation Deed dated 05.06.2004 is available with the Respondent No.2/ Complainant. It cannot be presumed at this stage that there is some mischief and there is some connivance on the part of the brother, Petitioner, Harkirat Singh Sodhi with the officials of the Sub Registrar's office to make it vanish. No effective purpose would be served since the Revocation Deed dated 05.06.2004 is available with the Respondent No.2/Complainant, and it has been placed on record in the Probate proceedings.



27. The Ld. Additional Session Judge thus, fell in error in directing the registration of the FIR. The Impugned Order dated 21.01.2017 allowing the Application under Section 156 (3) Cr.P.C, is hereby set aside.

28. The Petition and pending Application(s) are accordingly disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 23, 2025

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