

(2023) 09 JH CK 0032

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 3907 Of 2022

Anish Agarwal

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 14-09-2023

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 406, 420, 506
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2023) 09 JH CK 0032

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Ajit Kumar, Akriti Shree, S.K. Tiwari, Amit Kumar Das

Final Decision : Dismissed

Judgement

Gautam Kumar Choudhary, J

1. Instant petition has been filed for quashing of Kotwali P.S. Case No.61 of 2022 registered for the offences under Sections 406, 420, 506, 120B of the Indian Penal Code pending in the Court of learned Chief Judicial Magistrate, Ranchi.

2. The case of the prosecution in brief, as set out in the FIR, is that the informant Shyam Jalan and Anil Kumar Jalan were co-owners of the land appertaining to MS Plot No. 1071 and 1072 area 12.5 Khatha, Mauza Chadri, District Ranchi. The said plot was acquired by three registered sale deeds. Anil Kumar Jalan was the owner of 3 Katha and 14 Chhatak and rest of land belongs to the informant.

3. The main allegation as made in the FIR is that both the land owners had entered into a development agreement with the company in the name of M/s Rise Shelter Pvt. Ltd. through its Director Anil Kumar Agarwal for the purpose of construction of a multi-storied building. As per terms of agreement, 70% of total super built up area of each floor was to be given to the land owners and 30% was to be retained as developer share. When the building was not constructed within the stipulated time by the developer, the informant terminated the

agreement and filed a case on 04.08.2021 being Case No. 194 of 2021 for declaration that the said agreement stood terminated. Despite the termination of agreement, Anil Kumar Agarwal, Anish Agarwal and Anil Kumar Jalan disposed of the share of the informant to different persons for the period from 22.01.2022 to 28.02.2022.

4. The instant petition has been preferred for quashing of the FIR.

5. Main allegation of the informant is that being the major shareholder of the land, more than 8 katha on which the building has been constructed, he is being deprived and being ousted from his share by the developer in collusion with the co-owner of the land. These allegation prima facie make out the offence alleged.

6. It has been held in Neeharika Infrastructure Pvt Ltd Vs State of Maharashtra, 2023 SCC Online SC 315 that when a prayer for quashing the FIR is made by the alleged accused and the Court when it exercises the power under Section 482 Cr. P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The Court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence.

Considering the allegations as made in the FIR, this Court is not inclined to quash the FIR at this stage.

Criminal Miscellaneous Petition stands dismissed.