
(1999) 06 PAT CK 0057

In the Patna High Court

Case No : Criminal Miscellaneous No. 24589 of 1998

Bunni Lal Das and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 23-06-1999

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 482
Penal Code, 1860 (IPC) — Section 120(B), 406, 420, 463, 467
Registration Act, 1908 — Section 58(1), 5B

Citation : (1999) 2 PLJR 873

Hon'ble Judges : S.K. Chattopadhyay, J

Bench : Single Bench

Advocate : Sanjay Kumar Giri, for the Appellant; Vikram Deo Singh, for O.P. No. 2, for the Respondent

Final Decision : Allowed

Judgement

S.K. Chattopadhyay, J.—In this application the Petitioners have prayed for quashing the Chapra Town P.S. Case No. 203 of 1998 which has been registered under Sections 420, 467, 463, 406 and 120(B) of the Indian Penal Code against them.

2. The Opposite Party No. 2 filed a complaint before the Chief Judicial Magistrate, Chapra bearing Complaint case No. 993/98. The Chief Judicial Magistrate directed for further investigation to the police u/s 156(3) Code of Criminal Procedure and Chapra Town P.S. Case No. 203/98 was instituted.

3. In short the facts of the case is that the complainant had purchased a piece of land in 1954 in village Bhaismara where his sister was married to one Deocharan Giri. According to the complainant he had purchased the said land to help his sister after the death of her husband and on 1.6.98 the Petitioners 1 and 3 came to his village and requested him to sell the land which is situated in village Bhaismara. The complainant was in need of money and so he agreed to sell the

same. He executed the sale deed in presence of the Registrar on 1.6.98 in favour of the Petitioner No. 1. Further allegation is that the Petitioner No. 1 assured him that he would pay consideration amount of Rs. 38,000/- to him on 20.6.98 but when after the lapse of the said period the amount was not paid, the complainant approached the Petitioner No. 1 but it was refused.

4. It is asserted that the Petitioner No. 1 refused to give consideration money by saying that because he had already got the receipt of possession of the land, he would not pay the amount. With this allegation the complaint was filed.

5. Learned Counsel for the Petitioners submits that the entire complaint petition does not make out any case against the Petitioners inasmuch as admittedly the Opposite Party No. 2 executed the deed by putting his signature on it in favour of Petitioner No. 1 in presence of the Registrar at Chapra. According to him the Opposite Party No. 2 being a literate person would not have signed the document without receiving the full consideration amount. In this context he has referred to annexure-2 which is receipt signed by the Opposite Party No. 2 himself.

6. Learned Counsel for the Opposite Party No. 2, on the other hand, submits that as because the learned Magistrate directed the Police to make investigation on receipt of the complaint, the High Court should quash the entire proceeding at the threshold.

7. I am aware of the limitation of the High Court in exercising its power either under Article 226 of the Constitution or u/s 482 Code of Criminal Procedure in quashing a first information report or a complaint at the initial stage. However, as laid down by their lordships of the Supreme Court in the case of State of Haryana and Ors. v. Ch. Bhajan Lal and Ors. 1992 SC 604, that where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted their entirety do not prima facie constitute any offence or make out a case, the High Court will be justified in quashing the same. In the background of this decision of their lordships if we consider the facts of the instant case it will be clear that the Opposite Party No. 2, being a retired employee of the State Government and a literate person, executed the sale deed in favour of the Petitioner No. 1. In his complaint Petitioner he has admitted that he was in need of money for some personal necessity and, as such, when the purchaser approached him for purchasing his land, he agreed to the proposal. He not only executed the sale deed but also put his signature on the receipt in which the name of the Petitioner No. 1 is also given through which the Petitioner No. 1 could have got the possession over the land. Moreover, when the sale deed was executed before the competent authority, that is, the Registrar, it cannot be presumed that the Opposite Party No. 2 executed the same without receiving the consideration amount. Section 5B of the Registration Act, 1908 contemplates the particulars to be endorsed on documents admitted to registration. Section 58(1)(c) reads thus;

any payment of money or delivery of goods made in the presence of the

registering officer in reference to the execution of the document, and any admission of receipt consideration, in whole or in part, made in his presence in reference to such execution.

Thus it is clear that this particular is to be endorsed on the documents sought to be executed. In this case, annexure-1 is the typed copy of the sale deed which reveals that the Opposite Party No. 2, after personally going through the sale deed, understood the same and after receiving the consideration money of Rs. 38,000/- signed the sale deed.

8. Under these circumstances, in my view, by no stretch of imagination it can be said that the Opposite Party No. 2 did not receive any amount towards the sale of his land. Moreover, the certificate of registration is admissible for the purpose of proving that the facts mentioned in the endorsement have occurred as therein-mentioned.

9. Under these circumstances, in my view, the Opposite Party No. 2 has filed the complaint petition against the Petitioners with some oblique motive. It is well settled if the Court is satisfied that the continuation of the criminal proceeding will be an abuse of process of the court, the first information report or the complaint, which does not constitute, prima facie, an offence must be quashed.

Having considered the nature of the allegation in the facts and circumstances of the case, in my view, this is one of the cases where the criminal proceeding can not be allowed to continue.

10. In the result this application is allowed and the entire criminal proceeding of Chapra Town P.S. Case No. 203/93 is quashed.