
(2010) 12 AHC CK 0121
In the Allahabad High Court
Case No : C.M.C. No. 4846 of 2010

Deepmala Sharma and others	Vs	APPELLANT
State of U.P.and another		RESPONDENT

Date of Decision : 16-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406, 420, 467, 468, 504

Citation : (2010) 12 AHC CK 0121

Hon'ble Judges : Raj Mani Chauhan, J

Final Decision : Allowed

Judgement

Raj Mani Chauhan, J.—Sri A.B. Singh, Advocate who is father of the opposite party no. 2 files power on her behalf, which is taken on record.

2. Heard Sri Raghvendra Singh, Sr. Advocate appearing for the petitioners, Sri A.B. Singh, learned counsel appearing for the opposite party no. 2 and Sri Rajendra Kumar Dwivedi, learned A.G.A. for the State as well as perused the documents available on record.

3. This petition under Section 482 of the Code of Criminal Procedure (hereinafter referred to as the "Code") has been filed by the petitioners with the following prayers:

"It is most respectfully prayed that this Hon"ble court may kindly be pleased to quash the impugned chargesheet dated 17.4.2010 and the impugned summoning order dated 3.6.2010 and the entire proceedings relating to Case No. 2365 of 2010, Case Crime No. 81/2010, under Sections 406, 420, 467, 468, 504, 506 IPC, P.S. Vikas Nagar, District Lucknow pending before the court of Additional Chief Judicial MagistrateIII, Lucknow."

4. The submission of learned counsel for the petitioners is that the opposite party no. 2Smt. Neelam Singh (complainant) lodged the F.I.R. with the allegation that she had entered into agreement with the petitioners to purchase their house for

a sum of Rs. 18.00 lakhs. She had paid Rs. 1.60 lakhs towards the part payment of the sale consideration. When she applied for loan before the H.D.F.C. Bank, the bank got the title enquired into and it found the location of the house to be sold was not the same house as applied by the complainant consequently she was unable to purchase the house. She demanded the advance amount paid to the petitioners so many times but they were avoiding. On the written report of the opposite party no. 2, the police of P.S. Vikas Nagar, Lucknow registered a case at Crime No. 81/2010, under Sections 406, 420, 467, 468, 504, 506 IPC against the accused for investigation. The Investigating Officer after investigation of the case submitted chargesheet against the accused.

5. Learned counsel submits that the dispute between the parties is relating to contractual transactions of agreement of sale. On persuasion of the well wishers of the petitioners and opposite party no. 2, the matter was settled and the petitioners repaid back the amount of Rs. 1.60 lakhs to the opposite party no. 2 who accepting the amount executed a receipt to this effect. The opposite party no. 2 in her receipt has also mentioned that since she has received the advance amount of Rs. 1.60 lakhs paid by her to the petitioners, therefore, she has no grievance and she does not want to pursue the criminal case lodged by her against the petitioners. Learned counsel submits that this fact was brought to the notice of the Investigating Officer too by filing photocopy of the receipt executed by the opposite party no. 2 but he ignoring the receipt has submitted the impugned chargesheet against the accused. Learned counsel submits that since the petitioners have paid the amount to the opposite party no. 2 and the opposite party no. 2 does not want to pursue the criminal case against the petitioners, therefore, it will be futile exercise to permit the criminal case pending against the accused to continue; rather it will be proper in the interest of justice to quash the entire criminal proceedings pending against the accused arising out of the aforesaid impugned chargesheet.

6. Learned counsel for the opposite party no. 2 as well as the learned A.G.A. has no objection; rather learned counsel for the opposite party no. 2 accepts that his daughter has received the amount and she does not want to pursue the criminal case against the petitioners.

7. Considered the submissions of learned counsel for the petitioners, learned counsel for the opposite party no. 2 and learned A.G.A.

8. Since the parties have settled their dispute and the opposite party no. 2 does not want to pursue the criminal case against the petitioners, therefore, it will be proper in the interest of justice in view of the law laid down by the Hon'ble Apex Court in the case of Nikhil Merchant Vs. CBI reported in (2008) 9 SCC 677 to quash the impugned chargesheet filed by the Investigating Officer in case Crime No. 81/2010, under Sections 406, 420, 467, 468, 504, 506 IPC as well as proceedings of Case No. 2365 of 2010 arising out of the aforesaid impugned chargesheet pending before the learned Additional Chief Judicial MagistrateIII, Lucknow.

9. The petition is, therefore, allowed. The impugned chargesheet filed by the Investigating Officer in case Crime No. 81/2010, under Sections 406, 420, 467, 468, 504, 506 IPC as well as the entire proceedings of Case No. 2365 of 2010 arising out of the impugned chargesheet pending before the learned Additional Chief Judicial MagistrateIII, Lucknow is hereby quashed.