
(2015) 01 JH CK 0099

In the Jharkhand High Court

Case No : Criminal M.P. No. 254 of 2004

Deo Nandan Prasad and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-01-2015

Acts Referred:

Citation : (2015) 2 JLJR 123

Hon'ble Judges : Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : Laljee Sahay, for the Appellant

Final Decision : Allowed

Judgement

Rongon Mukhopadhyay, J.—Heard Mr. Laljee Sahay, learned counsel appearing on behalf of the petitioner and the learned counsel for the State. No one appears on behalf of the opposite party No. 2.

2. At the outset, learned counsel for the petitioner submits that petitioner No. 1 is no more and therefore, he is pressing this application on behalf of petitioner No. 2.

3. In this application, the petitioner has prayed for quashing the entire criminal proceeding in connection with Complaint Case No. 603 of 2003 including the order dated 27.1.2004 passed by the learned Chief Judicial Magistrate, Ranchi, whereby and whereunder, cognizance has been taken for the offence punishable u./s. 420/120B of the Indian Penal Code (IPC).

4. It appears that a complaint case was instituted by the opposite party No. 2 herein in which it was stated that he has purchased a piece of land measuring 10 Kathas and 6 Chatak, M.S. Plot No. 556/540 vide registered deed No. 1125 dated 12.12.1985 from one Harihar Prasad Sahu son of late Mathura Prasad. After purchase of the aforesaid plot of land, the complainant has constructed a building over the same and he used to pay the rent to the Government after

getting it mutated. It was further alleged that the complainant came to know that a portion of the land has been mutated in favour of the accused and on enquiry he could come to know that about 10 Kathas of land has been dishonestly purchased by the accused persons on the basis of false registered deed. It was also alleged therein that the accused No. 1 (petitioner No. 1) got his name mutated by giving false statement.

5. After initiation of the complaint case, an enquiry was conducted u./s. 202 of the Code of Criminal Procedure (Cr.P.C.) by examining the complainant on solemn affirmation as also his witnesses and pursuant thereto vide order dated 27.01.2004, the learned Chief Judicial Magistrate, Ranchi was pleased to take cognizance for the offence punishable u./s. 420/120B of the Indian Penal Code (IPC).

6. The learned counsel for the petitioner has assailed the impugned order by submitting that the same has been passed without application of judicial mind inasmuch as the complaint petition reveals a case of a civil nature and there is no criminal intent present in the allegations against the petitioner so as to justify the initiation of a criminal case. He has further submitted that in fact much prior to institution of the case a partition suit was instituted being Partition Suit No. 122 of 1965 and the suit was decreed in favour of Mathura Prasad and his two sons namely Harihar Prasad Sahu and Kedar Prasad Sahu. After obtaining possession in the land which was the subject matter of the said partition suit, Mathura Prasad had given on gift 5 Kathas, 1 Chatak to his daughter Malti Devi who is the petitioner in this case. He has further submitted that the complainant is the brother in law of one Harihar Prasad Sahu.

7. The learned counsel for the State on the other hand has submitted that the complaint petition reveals a criminal offence made out against the petitioner, as the accused persons had purchased the land dishonestly and behind the back of the complainant the accused persons has got mutated the land in their names.

8. After hearing the learned counsel for the parties and after going through the records, it appears that in the year 1965 a partition suit was filed and Mathura Prasad Sahu and his daughter Malti Devi came in possession of the land in question and that the other brother of Mathura Prasad Sahu did not have any right, title and possession over the land in question. Even otherwise perusal of the complaint petition reveals that it is purely a case of civil nature and only in order to create pressure upon the accused persons, the complainant has instituted the present complaint case. The complaint petition further reveals that steps had been taken by the complainant for cancellation of the mutation in favour of accused No. 2 (petitioner) and subsequently vide order dated 5.3.2003 passed by the Circle Officer, Ranchi, the mutation was cancelled. Therefore it was necessary for the complainant to avail the appropriate remedy under civil law and not by initiating a criminal proceeding.

9. In view of what has been discussed above, I feel inclined to entertain this

application. This application is accordingly allowed and the entire criminal proceeding in connection with Complaint Case No. 603 of 2003 including the order dated 27.1.2004 passed by the learned Chief Judicial Magistrate, Ranchi, whereby and whereunder, cognizance has been taken for the offence punishable u./s. 420/120B of the Indian Penal Code (IPC) is quashed.