
(2004) 09 RAJ CK 0012

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No's. 1015 of 2003 and 60, 61, 71 to 82 of 2004

Girish Pal Singh and Others etc.

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 08-09-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B

Citation : (2005) CriLJ 279 : (2005) 1 RLW 340 : (2004) 4 WLC 692

Hon'ble Judges : N.N. Mathur, J

Bench : Single Bench

Advocate : S.D. Vyas, for the Appellant; J.P.S. Choudhary, Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

N.N. Mathur, J.

In this group of Criminal Miscellaneous Petitions filed u/s 482, Cr.P.C, petitioners have sought direction to quash different F.I.Rs. lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur u/s 13(1)(D)(ii) of Prevention of Corruption Act, 1988 read with Section 120B, IPC.

1. S. B. CRIMINAL MISC. PETITION NO. 1015/2003:

In the instant case, petitioners Girish Pal Singh and others have challenged the F.I.R. No. 189/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Smt. Saka Devi, Sarpanch on 25-1-1996 and adopted a resolution to sell the land in favour of the petitioners herein viz; Girish Pal Singh, Hodel Singh and

Smt. Pushpa and two others viz., Lata Devi and Hari Prakash under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1996, the Sub-Registrar, Abu Road provided the market rate of the subject land at Rs. 61,11 per square ft. This way, in case of Patta No. 11 Rs. 3,15,773/-, Patta No. 12 Rs. 3,15,773/-, Patta No. 13 Rupees 3,15,773/-, Patta No. 14 Rs. 3,16,992 and Patta No. 16 Rs. 82, 290/- in total Rupees, 13,46,601/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

2. S. B. CRIMINAL MISC. PETITION NO. 60/2004 :

In the instant case, petitioners Satya Narain and others have challenged the F.I.R. No. 192/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Shri Subhash Choudhary, Up Sarpanch on 19-11-1996 and adopted a resolution to sell the land in favour of the petitioners herein viz; Satya Narain, Mima Devi and Divakar and two others viz; Gunwant Bhai and Smt. Aman Yadav under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. as per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1997, the Sub Registrar, Abu Road provided the market rate of the subject land at Rs. 76/- per square ft. This way, in case of Patta No. 43 Rs. 3,82,549/-, Patta No. 44 Rupees 3,84,218/-, Patta No. 45 Rs. 3,79, 250/-, Patta No. 46 Rs. 7,58,500/- and Patta No. 47 Rs. 3,80,486/-, in total Rs. 22,85,003/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

3. S. B. CRIMINAL MISC. PETITION NO. 61/2004 :

In the instant case, petitioners Manju Vyas and another have challenged the F.I.R. No. 196/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Shri Subhash Choudhary, Up Sarpanch on 19-11-1996 and adopted a resolution to sell the land in favour of the petitioners herein viz; Manju Vyas and Girish Pal Singh and three others viz; Smt. Aman Yadav, Sukha Ram and Smt. Aman Yadav under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1997, the Sub Registrar, Abu Road provided the market rate of the subject land at Rs. 76/- per square ft. This way, in case of Patta No. 38 Rs. 3,03,400/-, Patta No. 39 Rs. 7,58,500/-, Patta No. 40 Rs. 3,79,250/-, Patta No. 41 Rs. 3,79,250/- and Patta No. 42 Rs. 7,58,500/-, in total Rs. 25,78,900/were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

4. S. B. CRIMINAL MISC. PETITION NO. 71/2004 :

In the instant case, petitioner Surja Ram has challenged the F.I.R. No. 186/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi, Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Smt. Saka Devi, Sarpanch on 25-1-1996 and adopted a resolution to sell the land in favour of the petitioner herein viz; Surja Ram and four others viz; Chirag Patel, Deva Ram, Smt. Sayri Devi and Mafatlal under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time, i.e. in the years 1996 and 1997, the Sub Registrar Abu Road provided the market rate of the subject lands at Rs. 88,89/-, Rs. 44,29/- and Rs. 76/- per square ft. at villages Danvaav, Aakra Bhatta and Manpur respectively. This way,

in case of Patta No. 23 Rs. 7,09,920/-, Patta No. 27 Rs. 2,45,810/-, Patta No. 28 Rs. 82,379/-, Patta No. 29 Rs. 1,20,469/- and Patta No. 48 Rs. 3,92,420/-, in total Rs. 15,50,998/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

5. S. B. CRIMINAL MISC. PETITION NO. 72/2004 :

In the instant case, petitioner Duryodhan has challenged the F.I.R. No. 187/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Smt. Saka Devi, Sarpanch on 25-1-1996 and adopted a resolution to sell the land in favour of the petitioner herein viz; Duryodhan and four others viz; Babupuri, Shankerlal S/o Rama Ji, Shankerlal S/o Kishanlal and Ram Nath under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1996. the Sub Registrar, Abu Road provided the market rate of the subject lands at Rs. 61,00 and Rs. 88,89 per square ft. at villages Manpur and Danvaav respectively. This way, in case of Patta No. 15Rs. 1,40,452/-, Patta No. 17 Rs. 1,75,809/-, Patta No. 24 Rupees 1,99,665/-, Patta No. 25 Rs. 53,244/- and Patta No. 26 Rs. 42,595/-, in total Rs: 6,11,765/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

6. S. B. CRIMINAL MISC. PETITION NO. 73/2004 :

In the instant case, petitioners Bharat Bhai and Jodh Singh have challenged the F.I.R. No. 188/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Smt. Saka Devi, Sarpanch on 31-8-1995 and adopted a resolution to sell the land in favour of the petitioners herein viz; Bharat Bhai and Jodh Singh and three others viz; Haresh Bhai, Raoji Bhai and Mukund Nana under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per

Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1 /3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1995, the Sub Registrar, Abu Road provided the market rate of the subject lands at Rs. 30,55/-, Rs. 27.55/- and Rs. 30.55 per square ft. at villages Aakra Bhatta, Danvaav and Manpur respectively. This way, in case of Patta No. 6 Rs. 76,760/-, Patta No. 7 Rs. 80,803/-, Patta No. 8 Rs. 1,41,238/-, Patta No. 9 Rs. 24,666/- and Patta No. 10 Rs. 1,44,400/-, in total Rs. 4,67,861/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

7. S. B. CRIMINAL MISC. PETITION NO. 74/2004:

In the instant case, petitioner Shanti Bhai has challenged the F.I.R. No. 190/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau .Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Smt. Saka Devi, Sarpanch on 25-1-1996 and adopted a resolution to sell the land in favour of the petitioner herein viz; Shanti Bhai and four others viz; Manoharlal, Birbal Singh, Pramod Kumar and Smt. Madhu Ben under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1996, the Sub Registrar, Abu Road provided the market rate of the subject lands at Rs. 61.11, Rs. 44.44 and Rs. 88.89 per square ft. at villages Manpur, Aakra Bhatta and Danvaav respectively. This way, in case of Patta No. 18 Rs. 2,46,888/-, Patta No. 19 Rs. 3,45,462, Patta No. 20 Rs. 4,22,172/-, Patta No. 21 Rs. 7,09,920/- and Patta No. 22 Rs. 7,27,668/-, in total Rs. 24,52,110/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

8. S. B. CRIMINAL MISC. PETITION NO. 75/2004 :

In the instant case, petitioner Bhupendra Bhai Patel has challenged the F.I.R. No.

191 / 1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Smt. Saka Devi, Sarpanch on 31-8-1995 and adopted a resolution to sell the land in favour of the petitioner herein viz; Bhupendra Bhai Patel and four others viz; Birbal Singh, Govind Sethi, Jas Bhai and Bhanu Bhai under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e.. in the year 1995, in Sub Registrar, Abu Road provided the market rate of the subject lands at Rs. 30.55/-, Rs. 27,55/- and Rs. 30,55 per square ft. at villages Aakra Bhatta, Danvaav and Manpur respectively. This way, in case of Patta No. 1 Rs. 12,707/-, Patta No. 2 Rs. 1,23,300/-, Patta No. 3 Rs. 79,830/-, Patta No. 4 Rs. 77,155/- and Patta No. 5 Rs. 71,045/-, in total Rs. 3,64,037/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

9. S. B. CRIMINAL MISC. PETITION NO. 76/2004 :

In the instant case, petitioners Smt. Aman Yadav and Ajay Singh have challenged the F.I.R. No. 193/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Shri Subhash Choudhary, Up Sarpanch on 19-11-1996 and adopted a resolution to sell the land in favour of the petitioners herein viz; Smt. Aman Yadav and Ajay Singh and five others viz. Mohanlal Kailash, Ashok, Bhaggu and Daulat Ram under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1 /3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1997, the Sub Registrar, Abu Road provided the market rate of the subject lands at Rs. 57/-, Rs. 76/- and Rs. 20.85/- per square ft. at village Aakra

Bhatta, Manpur and Umarni respectively. This way, in case of Patta No. 65 Rs. 5,68,500/-, Patta No. 66 Rs. 3,79,250/-, Patta No. 67 Rs. 5,68,500/-, Patta No. 70 Rs. 2,72,880/- and Patta No. 72 Rs. 51,041/-, in total Rs. 18,40,171/-, were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

10. S. B. CRIMINAL MISC. PETITION NO. 77/2004 :

In the instant case, petitioners Smt. Aman Yadav and Ajay Singh have challenged the F.I.R. No. 194/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Shri Subhash Choudhary, Up Sarpanch on 19-11-1996 and adopted a resolution to sell the land in favour of the petitioners herein viz; Smt. Aman Yadav and Ajay Singh and five others viz; Bhalla Ram, Hanuman, Ramesh Kumar, Smt. Durga Devi and Shri Kishan under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that person having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1 /3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1997, the Sub Registrar, Abu Road provided the market rate of the subject land at Rs. 76/- per square ft. at village Manpur. This way, in case of Patta No. 59 Rs. 7,58,500/-, Patta No. 60 Rs. 3,79,250/-, Patta No. 61 Rs. 3,79,250/-, Patta No. 62 Rs. 7,58,500/- and Patta No. 64 Rs. 7,58,500/-, in total Rs. 30,34,000/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

11. S. B. CRIMINAL MISC. PETITION NO. 78/2004 :

In the instant case, petitioner Dilip Tak has challenged the F.I.R. No. 195/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Smt. Saka Devi, Sarpanch on 30-11-1996 and adopted a resolution to sell the land in favour of the petitioner herein viz; Dilip Tak and two others viz; Deva Ram and Chand Khan under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per

sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time, the Sub Registrar, Abu Road provided the market rate of the subject lands at Rs. 44.44/- and Rs. 57/- per square ft. in the years 1996 and 1997 respectively at village Aakra Bhatta and Rs. 76.00/- per sq. ft. in the year 1997 at village Manpur. This way, in case of Patta No. 68 Rs. 4,52,136/-, Patta No. 69 Rs. 5,36,942/- and Patta No. 30 Rs. 2,66,220/-, in total Rs. 12,48,298/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

12. S. B. CRIMINAL MISC. PETITION NO.

In the instant case, petitioners Smt. Aman Yadav and others have challenged the F.I.R. No. 197/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Shri Subhash Choudhary, Up Sarpanch on 19-11-1996 and adopted a resolution to sell the land in favour of the petitioners herein viz; Smt. Aman Yadav, Ajay Singh and Baldev Ram and one Smt. Lalita Devi under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1997, the Sub Registrar, Abu Road provided the market rate of the subject land at Rs. 76/- per sq. ft. at village Manpur. This way, in case of Patta No. 49 Rs. 7,58,500/-, Patta No. 50 Rs. 3,79,250/-, Patta No. 51 Rs. 3,15,536/-, Patta No. 52 Rs. 3,79,250/- and Patta No. 53 Rs. 7,58,500/-, in total Rs. 29,70,286/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

13. S. B. CRIMINAL MISC. PETITION NO. 80/2004 :

In the instant case, petitioners Smt. Aman Yadav and Ajay Singh have challenged the F.I.R. No. 198/1999 lodged at Anti Corruption Bureau Choki

Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Smt. Saka Devi, Sarpanch on 25-1-1996 and adopted a resolution to sell the land in favour of the petitioners herein viz; Smt. Aman Yadav and Ajay Singh and four others viz; Kheemaji, Babu, Banshilal and Chunnilal under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time, the Sub Registrar, Abu Road provided the market rate of the subject lands at Rs. 44,44/- and Rs. 57/- per square ft. in the years 1996 and 1997 respectively at village Aakra Bhatta and Rs. 76.00/- per sq. ft. in the year 1997 at village Manpur. This way, in case of Patta No. 31 Rs. 2,12,592/- , Patta No. 32 Rs. 2,12,592/-, Patta No. 63 Rs. 7,58,500/- and Patta No. 71 Rs. 1,95,109/-, in total Rs. 13,78,793/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

14. S. B. CRIMINAL MISC. PETITION NO SI /2004 :

In the instant case, petitioners Smt. Aman Yadav and others have challenged the F.I.R. No. 199/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Shri Subhash Choudhary, Up Sarpanch on 19-11 -1996 and adopted a resolution to sell the land in favour of the petitioners herein viz; Smt. Aman Yadav, Ajay Singh, Mukan Singh and Mangal Singh and three others viz; Sheoraj Singh, Raghuraj Singh and Mohanlal under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred-to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1/3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the documents with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1997, the Sub Registrar, Abu Road provided the market rate of the subject land at Rs. 76/- per square ft. at village Manpur. This way, in case of Patta No. 54 Rs. 3,81,146/-, Patta No. 55 Rs. 4,52,218/-, Patta No. 56 Rupees

1,04,673/-, Patta No. 57 Rs. 3,91,310/- and Patta No. 58 Rs. 3,79,256/-, in total Rs. 17,08,597/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

15. S. B. CRIMINAL MISC. PETITION NO. 82/2004 :

In the instant case, petitioners Harendra Singh and others have challenged the F.I.R. No. 200/1999 lodged at Anti Corruption Bureau Choki Sirohi, Police Station Pradhan Aarakshi Kendra, Anti Corruption Bureau, Jaipur, by Deputy Superintendent of Police, Anti Corruption Bureau, Sirohi. It is alleged that the Gram Panchayat, Aakra Bhatta convened a meeting under the chairmanship of Shri Subhash Choudhary, Up Sarpanch on 19-11-1996 and adopted a resolution to sell the land in favour of the petitioner herein viz; Harendra Singh, Vijendra Singh and Sanjeev Kumar and two others viz; Rewa and Rajendra Singh under Rule 266 of the Rajasthan Panchayat (General) Rules, 1961, hereinafter referred to as "the Rules of 1961" considering their old possession at the rate of Rs. 0.15 per sq. ft. As per Rule 266 of the Rules of 1961, it was resolved that persons having possession over the urban land for more than 20 years but less than 40 years, the land may be sold at 1 /3rd rate, which is prevalent in the market and in case of possession for more than 40 years, the land may be sold at 1/6th of the market rate. It is alleged that the Gram Panchayat without verifying the document with respect to possession, adopted the resolution to sell the land at the throw away prices. At the relevant time i.e. in the year 1997, the Sub Registrar, Abu Road provided the market rate of the subject land at Rs. 76/- per square ft. at village Manpur. This way, in case of Patta No. 33 Rs. 3,00,366, Patta No. 34 Rs. 3,79,629/-, Patta No. 35 Rs. 3,76,975, Patta No. 36 Rs. 3,79,250/- and Patta No. 37 Rs. 3,77,657/- in total Rs. 18,13,877/- were less recovered. Thus, a huge financial loss was caused to the State Government. The sale of plots has been cancelled by the Collector, Sirohi exercising his revisional power u/s 97 of the Rajasthan Panchayat Act, 1994, in short "the Act of 1994".

16. The accused petitioners in the above referred F.I.Rs., are either Panch or Up Sarpanch of the Gram Panchayat. The substance of the allegation against them is that certain plots of the Panchayat were sold at throw away prices and thereby conferred pecuniary advantage to such purchasers, which resulted in wrongful loss to the Panchayat and wrongful gain to the accused petitioners constituting an offence of criminal misconduct u/s 13(1)(d)(ii) of Prevention of Corruption Act, 1988.

17. It is contended by Mr. S. D. Vyas, learned counsel for the petitioners, that the plots were sold in accordance with the provisions of Rajasthan Panchayat (Central) Rules, 1961. A plan was prepared and thereafter some Panchas were appointed to inspect the site. The report was considered before the Gram Panchayat and a resolution was adopted to grant pattas in favour of different persons. The pattas were cancelled by the Collector exercising the revisional

jurisdiction. The matter was taken to the State Government. It was urged inter alia that the pattas were issued as per resolution of the Gram Panchayat and houses have also been constructed on such land. However, the petitions were dismissed on the ground that the price was erroneously fixed on the basis of oral evidence, affidavit and old possession in total disregard to the market price fixed by the department of Registration. The decision of the State Government was challenged before this Court by way of filing a petition. By interim order, the parties were directed to maintain status quo in respect of the subject plots. It is further submitted that the contents of the F.I.R. do not satisfy the essential ingredients of the offence alleged. No corruption or illegal means have been shown for obtaining any valuable thing nor it has been shown that by abusing the position, any pecuniary advantage has been taken by the petitioners or anybody else. As regards the price of the land, it is submitted that since the petitioner-applicants were having old possession, so it was sold at the rate of Rs. 0.15 per sq. ft. Learned counsel has also referred to certain documents to show that the lands could be sold at the rate of Rs. 0.15 per sq. ft. As regards the conspiracy part, it is submitted that there is no evidence worth the name to suggest any sort of conspiracy between the Panch/Sarpanch and the purchasers. On the other hand, it is submitted by the learned Public Prosecutor that the matter is still under investigation and, as such, no case for quashing of investigation is made out.

18. At the stage of considering an application for quashing the investigation or further proceedings, it is not permissible to proceed as if the Civil Court was holding trial and trying to sift the evidence.

19. I have considered the rival contentions and perused the record.

20. Section 13 of the Act deals with various situations when a public servant can be said to have committed criminal misconduct. Sub-clause (ii) of Clause (d) of subsection (1) of Section 13 of the Act is applicable when a public servant abuses his position. A public servant is said to have committed an offence of criminal misconduct, if he obtains or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate or from any person whom he knows to be interested in or related to such person. In this connection, it will have to be seen whether in entering into a transaction, a public servant has acted as a prudent man and discarding all the norms and statutory rules, has abused his position and got benefitted and if such conduct caused loss to the Government, his conduct would be dishonest. Thus, where the Government Officer has caused a wrongful loss to the Government by selling the plots at a throw away price to a person and thereby benefits that person in disregard to provisions and by acting fraudulently, he may be held guilty u/s 5(1)(d). It is

apparent that a huge loss has been caused to the Government running in lacs of rupees by selling the plots at a throw away price. The purchasers have also been benefited by such transactions. Thus, there is a prima facie case of conspiracy against them as well. It is well settled that this Court in exercise of its powers u/s 482, Cr.P.C. normally refrains from giving a primary decision, where the entire facts are incomplete and hazy. I have also been informed that investigation in all the cases is complete and a decision is to be taken by the appropriate authority for filing the charge-sheet. In view of this, it is not desirable to express any opinion in the matter at this stage. No case is made out for quashing of above referred F.I.Rs.

21. In view of the aforesaid, all the Miscellaneous Petitions are dismissed.