

(2009) 01 AHC CK 0022

In the Allahabad High Court

Case No : Criminal M. Application No. 19905 of 2008

Kalim Ahmad alias Anwar Miyan and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 15-01-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202, 482
Penal Code, 1860 (IPC) — Section 420, 467, 468, 471

Citation : (2009) 1 ACR 856

Hon'ble Judges : Vinod Prasad, J

Bench : Single Bench

Advocate : Sushil Shukla, for the Appellant; Azhar Hussain and A.G.A., for the Respondent

Judgement

Vinod Prasad, J.—Kalim Ahmad alias Anwar Miyan, Shahid Ahmad alias Shahid Miyan, Jaheer Ahmad alias Jaheer Miyan and Sajid Ahmad alias Guddu, four sibling brOrs. all son of late Nawab Ali, resident of 153, Shahbad, P. S. Prem Nagar, district Bareilly have invoked the inherent jurisdiction of this Court by filing of the instant Criminal Miscellaneous Application with the prayer to quash the proceedings of Complaint Case No. 2257 of 2004 for offences under Sections 467, 468 and 471, I.P.C., P.S. Kotwali, district Bareilly, pending in the Court of Id. J. M. Ist, Bareilly.

2. I have heard Sri Sushil Shukla, learned Counsel for the applicants in support of this application as well as Sri Azhar Hussain, learned Counsel for the Respondent and learned A.G.A. in opposition and perused the record of this application.

3. In a bird eye view, the allegations against the applicants, as is contained in Annexure-1 are that Sri Kishan Lal Suri son of Sri Bhagwan Das Suri, resident of 23A, Model Town, P.S. Baradari, district Bareilly had purchased a house from Smt. Shanti Devi wife of Kunj Lal, who was holding power-of-attorney of his wife namely Smt. Shanti Devi, which house was allotted a new Municipal Number

being House No. 218/154. The said house was given under the tenancy of Nawab Ali, father of the applicants. After the demise of Nawab Ali, the four applicants, as heirs of the deceased came in possession over the said house, as tenants. Further, allegations are that the aforesaid applicants by impersonating Smt. Shanti Devi through an imposter lady got executed a fictitious sale deed through a sham transaction in their favour and got it registered in the office of Deputy Registrar Registration and started claiming the ownership of the aforesaid house. Since the property was purchased through a sham transaction, F.I.R. Annexure-1 was got lodged by Kishan Lal Suri on 29.5.1999 at 5 p.m. at P.S. Kotwali, district Bareilly showing the date of the incident as 29.5.1992, which F.I.R. was registered as Crime No. 2350 of 1999 for offences under Sections 420, 467, 468 and 471, I.P.C.

4. The police of police station Kotwali, district Bareilly engineered the investigation and after concluding the same submitted a final report on 9.2.2000 (Annexure-2). Thereafter what transpires is that a protest petition was filed by the informant, which was treated to be a complaint by the concerned Magistrate who recorded the statement of the informant u/s 200, Cr. P.C. and that of his witnesses P.W. 1 Manohar Lal and P.W. 2 Om Prakash Goyel u/s 202, Cr. P.C. Basing his opinion on the aforesaid recorded statements vide order dated 22.4.2004 Id. J. M. Ist, Bareilly in the aforesaid case summoned the applicants to stand the trial for offences under Sections 467, 468, 471 and 420, I.P.C. fixing 21.5.2004 for their appearance before him. It is this proceeding, which is sought to be quashed by filing of the present criminal miscellaneous application.

5. Learned Counsel for the applicants contended that the matter has been compromised and the informant now does not want to prosecute the applicants. He further contended that the ordeal of the trial procedure will be a futile effort and wastage of time of the Court. Learned Counsel for the applicants relied upon a judgment of Apex Court rendered in Madan Mohan Abbot v. State of Punjab (2008) 2 SCC 464: 2008 (2) ACR 1892. He contended that since the parties do not want to litigate, the case should be closed. Learned Counsel for the applicants further submitted that the dispute was primarily civil in nature and therefore, no useful purpose will be served to go on with the trial procedure.

6. Learned Counsel for the Respondent also agreed to the fact that the dispute has been compromised and the parties do not want to litigate any further.

7. After hearing both the sides, I am of the view that since the matter has been compromised and both the litigating sides do not want to litigate any further therefore technicality of law should not come in their way to compromise the matter and therefore, while exercising my power u/s 482, Cr. P.C. I quash the proceedings of the aforesaid Complaint Case No. 2257 of 2004, Krishna Lal v. Kalim Ahmad alias Anwar Miyan and Ors. Complaint Case No. 2257 of 2004, under Sections 467, 468 and 471, I.P.C., P.S. Kotwali, district Bareilly, pending in the court of Id. J.M. Ist, Bareilly.

8. This application is allowed.

9. Copy of this order is directed to be sent to the trial Magistrate for his intimation.