
(2015) 03 RAJ CK 0043

In the Rajasthan High Court

Case No : Criminal Misc. Petition No. 3182/2014

Kalu Ram and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-03-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 482
Penal Code, 1860 (IPC) — Section 120-B, 420, 467, 468, 471

Citation : (2015) 03 RAJ CK 0043

Hon'ble Judges : Vijay Bishnoi, J.

Bench : Single Bench

Advocate : Ravindra Acharya, for the Appellant; Vikram Rajpurohit, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Vijay Bishnoi, J.—This criminal misc. petition under Section 482 Cr.P.C. has been filed by the petitioners with a prayer for quashing the FIR No. 412/2014 dated 03.11.2014 of Police Station, Kotwali, District Jaisalmer for the offence punishable under Section 420, 467, 468, 471 and 120-B IPC.

2. The impugned FIR has been lodged at the instance of respondent No. 2 with the allegation that the father of the respondent No. 2 has executed a special power of attorney in favour of petitioner No. 1 while authorising the petitioner No. 1 to sell the agriculture land belonging to the father of respondent No. 2 situated at Chak No. 1 SLD in Muraba No. 12/25 to one Fateh Singh S/o. Nihal Singh. It is contended that later on when Fateh Singh S/o. Nihal Singh did not pay the amount as agreed, his father had asked the petitioner No. 1 not to execute any sale-deed in favour of Fateh Singh S/o. Nihal Singh in relation to that agriculture land owned by him. It is alleged that in the year 2011, the petitioner No. 1 had removed the name of Fateh Singh S/o. Nihal Singh in para No. 5 of the special power of attorney and written the name of petitioner No. 2 - Balvinder Singh S/o. Sher Singh on it and, thereafter, sold the agriculture land to

the petitioner No. 2-Balvindar Singh S/o. Sher Singh on the basis of forged power of attorney. It is further alleged that the amount of Rs. 4,00,000/- received by the petitioner No. 1 from petitioner No. 2 has not been paid to father of the complainant-respondent No. 2. After receiving the said complaint, the Chief Judicial Magistrate, Jaisalmer has forwarded the same to the police under Section 156(3) Cr.P.C. and the police has started investigation.

3. Learned counsel for the petitioners has submitted that in fact the correction in the para No. 5 of the special power of attorney was done by the petitioner No. 1 on instruction of the father of the complainant-respondent No. 2 and the whole money has also been paid to them. It is contended that the allegations levelled in the impugned FIR are false and, therefore, same is liable to be quashed.

4. Per contra, learned Public Prosecutor has submitted that from bare reading of the contents of the impugned FIR, prima facie offence is made out against the petitioner, therefore, no case for quashing of impugned FIR is made out. It is also submitted by learned Public Prosecutor that whether the correction in the special power of attorney was done on instruction of father of the complainant-respondent No. 2 or whether the father of the complainant-respondent No. 2 has received the whole amount is a matter of investigation and defence of the petitioners cannot be taken into consideration at this stage.

5. Heard learned counsel for the petitioners and perused the impugned FIR.

6. In the impugned FIR the specific allegation levelled against the petitioner No. 1 is that he has made certain corrections and remove the name of Fateh Singh S/o. Nihal Singh in the power of attorney and written the name of petitioner No. 2 - Balvindar Singh S/o. Sher Singh in the said power of attorney in connivance with him. It is a matter of investigation whether the correction in the para No. 5 of the power of attorney was made at the instance of father of the complainant-respondent No. 2 or not and the father of the complainant-respondent No. 2 had received the whole amount or not.

7. The Hon'ble Supreme Court in catena of decisions has laid down the principle that an FIR or criminal proceedings can be quashed by the High Court while exercising power under Section 482 Cr.P.C. if from bare reading of the FIR, no case is made out. To mention a few-- Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandojirao Angre and Others, ; State of Haryana and others Vs. Ch. Bhajan Lal and others, ; Mrs. Rupan Deol Bajaj and another Vs. Kanwar Pal Singh Gill and another, ; Central Bureau of Investigation, SPE, SIU (X), New Delhi Vs. Duncans Agro Industries Ltd., Calcutta, ; State of Bihar Vs. Rajendra Agrawalla, , Rajesh Bajaj Vs. State NCT of Delhi and Others, ; M/s. Medchl Chemicals and Pharma P. Ltd. Vs. M/s. Biological E. Ltd. and Others, Hridaya Ranjan Pd. Verma and Others Vs. State of Bihar and Another, , M. Krishnan Vs. Vijay Singh and Another, and Zandu Pharmaceutical Works Ltd. and Others Vs. Md. Sharaful Haque and Others, . However, this Court is of the opinion that from bare reading of the contents of impugned FIR, prima facie case

against the petitioners is made out.

8. Hence, no case for interference in this criminal misc. petition is made out. The same is hereby dismissed.

9. Stay petition also stands dismissed.