
(2010) 09 AHC CK 0297

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 19588 of 2008

Mahendrawati and others

APPELLANT

Vs

State of U.P.and another

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

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

Citation : (2010) 09 AHC CK 0297

Hon'ble Judges : Shri Kant Tripathi, J

Final Decision : Dismissed

Judgement

Shri Kant Tripathi, J.—Heard Shri V.K. Jaiswal, learned Counsel for the applicants, learned AGA appearing for the respondent No. 1 and Smt. Anjana Singh, learned Counsel appearing for the respondent No. 2 and also perused the record.

This is an application under section 482 Cr.P.C. for quashing the summoning order dated 26.2.2005 as well as proceeding of Complaint Case No. 334 of 2004 (Smt. Rasheddan v. Mahendra Wati and others). Shri V.K. Jaiswal, learned Counsel for the applicants submitted that the impugned sale deed was executed by the respondent No. 2 by affixing her photograph thereon. The sale deed was executed not only by the respondent No. 2 but also by her cosharers Alimuiddin and Khaliluddin. Therefore, there was no question of fraud especially when the other sellers have not challenged the saledeed.

2. Smt. Anjana Singh, learned Counsel appearing for the private respondent, on the other hand, submitted that the respondent No. 2 is an illiterate widow. She has very clearly stated in the complaint that she did not execute the saledeed and the applicants obtained the saledeed from some other lady, who impersonated as the respondent No. 2 and put her photograph on the saledeed. Therefore, the offences under sections 420/467/468 IPC are made out against the applicants.

Copy of the complaint is on record, in which the respondent No. 2 has very

clearly stated that the applicants, taking advantage of the fact that the respondent No. 2 was a illiterate widow, got the sale deed executed in their favour from some other woman. She had not only affixed her photograph on the saledeed but also impersonated herself as the respondent No. 2. Respondent No. 2, therefore, raised question of genuineness of sale deed and contended that the applicants obtained the same in a fraudulent manner.

This Court in exercise of inherent power under section 482 Cr.P.C. is not required to embark upon an inquiry as to the reliability or genuineness of the allegations made in the complaint. The facts stated in the complaint have to be treated at their face value and thereafter it is to be seen whether or not the complaint discloses commission of any offence or not. At this stage, a final verdict, either of guilt or innocence of the accused, cannot be recorded. In view of the fact that the complaint filed by the respondent No. 2 discloses commission of cognizable offences under sections 420/467/468 IPC and the learned Additional C.J.M., on the basis of the materials collected under sections 200 and 202 Cr.P.C. arrived at the conclusion that there was sufficient ground to proceed with the complaint against the applicants, the summoning order cannot be quashed. Therefore, the application has no merit and is liable to be dismissed.

3. The application is dismissed. However, keeping in view the facts and circumstances of the case, it is provided that if the applicants Smt. Mahendrawati, Sunil, Anil and Omkar appear before the Court concerned and apply for bail in the aforesaid case, their prayer for bail shall be considered and disposed of by the Court below in the light of the principles laid down in the case of *Ial Kamendra Pratap Singh v. State of U.P. and others*, 2009 (67) ACC 966 (SC) = 2009 (84) AIC 84 (84).