
(2002) 11 JH CK 0025

In the Jharkhand High Court

Case No : Criminal M.P. No. 4550 of 2001

Meena Narayan and Others

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 20-11-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2002) 11 JH CK 0025

Hon'ble Judges : D.N. Prasad, J

Bench : Single Bench

Advocate : Rajesh Kumar, for the Appellant; APP and Nilesh Kumar, for O.P. No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Deoki Nandan Prasad, J.—This application has been filed for quashing of Telco (Birsanagar) P.S. Case No. 153 of 2001 (GR No. 1297/ 2001) registered under 420/406/468/386/418/506/34 of the Indian Penal Code.

2. The prosecution case in brief, as stated that the Opposite party No. 2 and her husband booked one Duplex Bungalow No. 8 in Phase-II of Narayani Complex at Prakash Nagar, P.S. Birsanagar in the town of Jamshedpur for a final consideration of Rs. 4,50,000/- and initially she paid a sum of Rs. 25,000/- on 14.1.1998 and thereafter she paid a sum of Rs. 3,25,000/- for purchase of the said Duplex Bungalow No. 8. Lastly, the complainant paid a sum of Rs. 50,000/- to the petitioners on 15.3.1999 as a full and final consideration money. But, the construction of the Duplex Bungalow No. 8 was not done as per the building plan. On the repeated requests made by the complainant the work could not be completed. It is also alleged that the petitioners demanded Rs. two lakhs from the Opposite party No. 2 by letter/notice dated 17.3.2001 and thereafter FIR was lodged.

3. The learned counsel appearing on behalf of the petitioners submitted that the

whole allegation is based upon the agreement and as such there is no criminal liability and at best the allegation as made out is of civil nature as well as no offence as alleged is made out. It is further argued that the complainant had already taken the possession of the Duplex Bungalow and there was no grievances at the relevant time as well as the complainant made a complaint before the Deputy Commissioner, Singhbhum East and for the same allegations, this false case has been filed with mala fide intention and, therefore, the entire prosecution case is fit to be quashed.

4. On the other hand, the complainant-O.P. No. 2 filed a counter affidavit claiming therein that the charge-sheet has already been submitted in the case after conclusion of the investigation and the learned Chief Judicial Magistrate also took cognizance for the offence by order dated 19.1.2002. It is further submitted that the petitioners committed breach of trust and also cheated the complainant lady as the work has not been completed even after receipt of the entire consideration money.

5. There is no denial about payment of consideration money as alleged by the complainant. It is also admitted fact that after completion of investigation, charge-sheet in the case has already been filed after finding prima facie case. The Magistrate also took cognizance. It is apparent that one complaint was made before the Deputy Commissioner East Singhbhum, against which the petitioners had filed WP (C) No. 2925/2001 and the proceedings in pursuance of the notice issued against the petitioners by the Executive Magistrate was stayed by order dated 10.7.2001.

6. The allegation as made out in the FIR/complaint prima facie constitutes the offence and after conclusion of the investigation, charge-sheet has already been submitted. The Court below also after finding prima facie case took cognizance, which does not require to be interfered.

7. Thus, I do not find any merit in this application, which is dismissed.