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**(2010) 08 AHC CK 0362**  
**In the Allahabad High Court**

Om Prakash and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 13-08-2010

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 179, 180, 195, 195(1), 195(3)  
Penal Code, 1860 (IPC) — Section 120B, 465, 468, 471

**Citation :** (2011) 2 ACR 1293 : (2011) CriLJ 210 : (2011) 3 Crimes 67 : (2010) 125 FLR 794 : (2010) 2 UPLBEC 1251

**Hon'ble Judges :** Ram Autar Singh, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Ram Autar Singh, J.—This criminal revision has been directed against the judgment and order dated 17.10.2002 passed by Additional Sessions Judge, Court No. 1, Varanasi in Criminal Revision No. 189 of 1998 Lal Mani Singh v. State of U.P. and Ors., whereunder the revision has been allowed and the order dated 20.2.1998 passed by IIIrd Judicial Magistrate, Varanasi has been set aside.

2. I have heard Shri V. Singh, learned Counsel for the revisionists, learned A.G.A. for the respondent No. 1 and Shri C.K. Parekh, learned Counsel for respondent No. 2 on this revision and perused the record.

3. It transpires from the record that respondent No. 2 Lal Mani Singh instituted a complaint case bearing No. 2085 of 1995 Lal Mani Singh v. Virendra Pratap Singh in the court of Chief Judicial Magistrate, Varanasi under Sections 465, 471, 120-B I.P.C. with these allegations that one Radhika Devi was the owner and in possession of land as detailed in the complaint, situated in Chandauli, the then District Varanasi and the revisionists Virendra Pratap Singh and others in collusion with each other got a forged sale deed executed by an imposter and registered at Calcutta (West Bengal) on 7.8.1990. The said sale deed was allegedly executed by another lady, namely, Ilambas Devi impersonating herself to be Radhika Devi, who was identified by a forged advocate, namely, Madan

Gopal Srivastava and on inquiry it was found that no such advocate was found practicing in Calcutta (West Bengal) and on the basis of said sale deed the revisionists got their names mutated by Assistant Consolidation Officer, Varanasi on 18.12.1990 in the revenue record in district Varanasi and when the revisionists tried to enter into the possession of the disputed land, the respondent No. 2 came to know of the entire fraud and forgery committed by the revisionists. He moved an application to S.S.P. Varanasi and then instituted the instant complaint in the court of Chief Judicial Magistrate, Varanasi. The learned Magistrate recorded the statement of the complainant u/s 200 Cr.P.C. and statements of the witnesses u/s 202 Cr.P.C. and summoned the revisionists to face trial under Sections 468, 471 of I.P.C.

4. The revisionists then moved an application before Chief Judicial Magistrate, Varanasi alleging the instant complaint to be barred by Section 195 of Cr.P.C. The learned Magistrate allowed the said application and discharged the revisionists of charges under Sections 468, 471, 120-B of I.P.C. holding the said complaint to be barred by Section 195(1)(b)(ii)(3) of Cr.P.C.

5. Aggrieved by which, the respondent No. 2 preferred Criminal Revision No. 189 of 1998 in the court of Sessions Judge, Varanasi, which was allowed by Additional Sessions Judge Court No. 1, Varanasi vide judgment and order dated 17.10.2002 holding that the provisions of Section 195 Cr.P.C. were not applicable to the said case in view of this fact that the said sale deed was forged in Calcutta (West Bengal) on 7.8.1990 and the same was used in District Varanasi on 18.12.1990 for getting their names mutated by Assistant Consolidation Officer, Varanasi and thus the Assistant Consolidation Officer was not required to file complaint in the said case. The revisionists then filed this revision against the said judgment and order.

6. The learned Counsel for the revisionists has contended that the judgment and order passed by the learned court below is illegal and contrary to material on record, because the revisionists No. 1 to 3 moved mutation application on the basis of registered sale deed executed in their favour and Assistant Consolidation Officer, Varanasi passed order dated 18.12.1990 mutating the names of the revisionists No. 1 to 3, against which Appeal No. 3290/508/319/901 Smt. Radhikha Devi v. Om Prakash Singh and Ors. was filed before the S.O.C., Varanasi. Smt. Radhikha Devi and Smt. Ilambas also filed Original Suit No. 521 of 1993 Smt. Radhikha Devi v. Om Prakash Singh and Ors. in the Civil Court for cancellation of the sale deed, which could not be decided by the civil court and thus the revisional court committed illegality in allowing the revision without considering the fact of filing of the sale deed in mutation court. Thus the complaint was barred by Section 195 of Cr.P.C. because the cognizance thereupon could be taken on the basis of the complaint filed by the court itself.

7. The learned Counsel for the revisionists did not press this contention before this Court that the said complaint filed in the court of Chief Judicial Magistrate, Varanasi was barred by Section 195 Cr.P.C., but he raised his argument solely on

the point of territorial jurisdiction of Chief Judicial Magistrate, Varanasi, with this contention that the forged sale deed was allegedly executed in Calcutta (West Bengal) and thus the complaint with regard to the same ought to have been filed in competent court of Calcutta (West Bengal) and the same could not be filed in the court of Chief Judicial Magistrate, Varanasi.

8. The learned Counsel for the respondent vehemently repelled the said contention on the ground that the forged sale deed was used by the revisionists in Varanasi for getting their names mutated by Assistant Consolidation Officer, Varanasi in revenue record and thus the Chief Judicial Magistrate, Varanasi was competent to entertain the said complaint and pass appropriate order against the revisionist.

9. Sections 179 and 180 Cr.P.C. deals with the provisions relating to the jurisdiction of the criminal courts in inquiry or trial. Sections 179 and 180 Cr.P.C. are reproduced below:

179. Offence triable where act is done or consequence ensues:

When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued. 180. Place of trial where act is offence by reason of relation to other offence: When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the first mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.

10. In view of above legal provisions of Sections 179 and 180 of Cr.P.C. the Chief Judicial Magistrate, Varanasi was having jurisdiction to entertain such complaint and pass appropriate order thereon because the forged sale deed executed in Calcutta (West Bengal) was used in district Varanasi in mutation proceedings. The offence of forgery was committed in Calcutta but the said forged deed i.e. sale deed was used in Varanasi and thus in view of Sections 179 and 180 Cr.P.C. the order passed by the learned Magistrate could not be said to be without jurisdiction.

11. I agree with this contention of learned Counsel for the respondent and find that the contentions raised on behalf of revisionists is not tenable in law, because the forged sale deed is alleged to have been used by the revisionists for getting their names mutated by Assistant Consolidation Officer, Varanasi and thus the Chief Judicial Magistrate, Varanasi has territorial jurisdiction to entertain the said complaint and take cognizance against the revisionist.

12. So far as the question of applicability of Section 195 Cr.P.C. is concerned, the said sale deed has not been forged in the court. The Hon'ble Apex Court in Iqbal Singh Marwah and Another Vs. Meenakshi Marwah and Another, has observed

that the bar u/s 195 Cr.P.C. would be attracted only when the offences enumerated in Section 195(1)(b)(ii) of Cr.P.C. have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any court i.e. during the period when the document was in custodia legis. If such offence is committed prior to its production or giving in evidence in court, no complaint by the said court would be necessary and a private complaint would be maintainable. Thus the revisional court did not commit any illegality or irregularity in passing impugned judgment and order.

13. In view of the foregoing discussions, this revision does not deserve to be allowed. Consequently, this revision being devoid of merit is dismissed.