

(2012) 01 AHC CK 0198

In the Allahabad High Court

Case No : Criminal Misc. Writ Petition No's. 21764, 24305, 23988 and 21436 of 2011

Rohit Kumar and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Penal Code, 1860 (IPC) — Section 420, 467, 468, 471
Prevention of Corruption Act, 1988 — Section 13, 7

Citation : (2012) 2 ADJ 596

Hon'ble Judges : Ramesh Sinha, J; Amar Saran, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. All the above captioned four writ petitions have been filed for challenging an FIR in Case Crime No. 762 of 2011, under sections 420, 467, 468, 471 IPC, PS Kasma, district G.B. Nagar. They have been heard altogether and are being disposed of by means of this common order. The brief facts of the case are that on an application dated 10.10.2011 given by Smt. Pragati Shukla, wife of Rajendra Shanker Shukla to the Inspector General (Registration), an FIR was lodged by the Sub-registrar, Sadar, Gautam Budh Nagar on 29.10.2011 at PS Kasma, district Gautam Budh Nagar. The FIR alleges that pursuant to a criminal conspiracy hatched by some persons agricultural plots Nos. 731 and 784, area 0.6072 in village Suthiana Pargana, Dadri tahsil, District Gautam Budh Nagar which was in the name of Smt. Pragati Shukla a sale-deed had fraudulently been executed in favour of the petitioners Rohit Kumar and Ashok Kumar Sharma by setting up some woman to impersonate Pragati Shukla. The witnesses of the sale-deed Raj Pal Sharma and Raj Kumar falsely identified the imposter to be Smt. Pragati Shukla.

2. The arrest of the petitioner Ashok Kumar Sharma was stayed by this Court vide order dated 16.11.2011 observing that he may have been a bona fide

purchaser and that he had lost the property and also he was required to fight a person to whom he had handed over some consideration for the property, hence his case was distinguishable from the impostors and from the persons who executed the sale-deed and from the marginal witnesses, who identified the impostors.

3. A separate petition was filed by Rohit Kumar and Raj Pal, wherein it was contended that the petitioner Rohit Kumar was a bona fide purchaser and Raj Pal was a witness of the sale-deed and that as a matter of fact the sale-deed had been executed by Smt. Pragati Shukla, respondent No. 4 and in a mala fide manner she had approached the Inspector General (Registration) to lodge the impugned report.

4. The alleged sale-deed, which was signed by Smt. Pragati Shukla was in Hindi and which is said to have borne her photograph, is also annexed with this petition. The petitioners' further case was that Smt. Pragati Shukla had filed a Civil suit No. 1197 of 2011 before the Civil Judge (SD), Gautam Budh Nagar against the petitioners Rohit Kumar, Ashok Kumar Sharma, Raj Pal and Raj Kumar Sharma, (which is also annexed with this petition) for cancellation of the sale-deed, on the ground of non-payment of the entire sale consideration to her. In the plaint she is said to have specifically admitted to having received Rupees fifty lakhs for the sale of the said property. The plaint alleged that as the plaintiff needed Rs. 500,000/- (rupees five lakhs), hence she had agreed to mortgage the land to the defendants Rohit Kumar and Ashok Kumar Sharma. The plaint further alleged that thereafter she decided to sell the land to the said persons and received Rs. 50,00,000/- (rupees fifty lakhs) as earnest money. With her consent stamps worth Rs. 2,58,200/- were purchased by the defendant Nos. 1 and 2. The thumb impressions were also taken. Significantly this plaint nowhere reiterates the case in the FIR that a fraudulent person had been made to impersonate as Pragati Shukla for the purpose of getting the sale-deed fraudulently executed in favour of Rohit Kumar and Ashok Kumar Sharma, after the sale-deed witnesses Raj Pal and Raj Kumar falsely identified the imposter to be Pragati Shukla.

5. Considering the said plaint where the plaintiff had admitted to having received Rs. 50 lakhs to be highly suspicious, this Court passed an order on 1.12.2011 directing the investigating officer to be present in the Court alongwith the case diary and complete instructions in the matter and also to inform Smt. Pragati Shukla to appear in person before this Court on the date fixed. In this background, the investigating officer and Smt. Pragati Shukla have appeared before this Court today. The investigating officer informs that the person who impersonated as Pragati Shukla to be one Seema Tiwari.

We examined Smt. Pragati Shukla, who denied either having executed the sale-deed or having filed the civil suit wherein she admits to having received Rs. 50 lakhs. She spoke in English and pointed out that she signs in English, whereas the purported signatures on the impugned sale-deed and plaint were in Hindi. This version of Smt. Pragati Shukla was also supported by the investigating

officer. We also find that Smt. Shukla who is present in Court is completely different from the woman whose photograph was present in the annexed sale-deed, and it is apparent that the complainant Smt. Pragati Shukla has not executed the impugned sale-deed.

6. Shri Shiv Sagar Singh, who has filed the two connected petitions on behalf of Raj Veer Singh, Jagat Sharma and Ram Pal, who are the real brothers of the co-accused Raj Pal, the marginal witness and sons of Ratan Lal, contends that the investigating officer Jagat Singh Sharma had demanded a bribe of Rs. 50,000/- for releasing Saurabh, son of Rajveer after he was picked up by five persons in a Maruti Zen on 2.11.2011. Rajveer filed an application u/s 156(3) Cr.P.C. against the Inspector Jagat Singh Sharma, S.O., PS Kasna u/s 7/13 of the Prevention of Corruption Act, in which the petitioners Jagat Singh (wrongly described as Jagat Sharma), Ram Pal and Rajveer Singh were made accused alongwith the other co-accused in a mala fide manner.

7. Prima facie it appears to us that Rajveer has filed the application u/s 156(3) Cr.P.C. u/s 7/13 of the Prevention of Corruption Act, in a wholly mala fide manner, in order to put pressure on the police to go slow in the investigation against the accused persons involved in this grave conspiracy of setting up an imposter lady as Pragati Shukla for fraudulently executing the sale-deed of her land, and subsequently these accused persons have aggravated their offence by maliciously filing a civil suit, wherein Pragati Shukla is said to have admitted receiving 50 lakhs, which allegation was denied by her in this Court and prima facie it appears that the said plaint which contains a different version from the FIR is also a fraudulent document.

8. It is also noteworthy that the investigation in this case is not being carried out by Shri Jagat Singh Sharma, but by Sri Ajay Singh, P.S. Kasna who has appeared before this Court today alongwith Smt. Pragati Shukla.

In this background, it cannot be said that no prima facie case is disclosed against the petitioners. So far as the individual roles of the petitioners are concerned, that is a matter for investigation by the investigating agency.

9. We would like to point that a very large number of cases are coming to light where similar modus operandi are adopted of setting up imposter ladies for getting fraudulent sale-deeds of properties of widows or other single helpless women, or women who reside in far off places executed, and then the hapless complainants after learning of the fraudulent transfers have to run from pillar to post for having the sale-deed annulled or for getting the offenders punished. Often land mafia are involved in this fraud. Sometimes the accused even succeed in obtaining orders staying their arrests in Criminal Writ petitions from this High Court by taking a specious plea that the dispute is civil in nature. It is high time that these grave frauds are put down with a firm hand.

10. We therefore find no merit in all the aforesaid writ petitions. They are accordingly dismissed with costs, which are quantified at Rs. 50,000/- each. The

petitioners Rohit Kumar son of Shree Ram, Raj Pal son of Ratan Lal, Ashok Kumar Sharma son of Sri Ricchpal Sharma, Raj Veer Singh son of Ratan Lal, Jagat son of Ratan Lal, and Ram Pal son of Ratan Lal are each directed to deposit Rs. 50,000/- as costs within two months with the District Magistrate, Gautam Budh Nagar failing which the same shall be realized as arrears of land revenue.

Fifty percent of the costs shall be payable to the Legal Services Authority, Gautam Budh Nagar and the other fifty percent shall be payable to the complainant Smt. Pragati Shukla. The stay orders granted earlier are hereby vacated.