
(2002) 12 RAJ CK 0020
In the Rajasthan High Court

Sagat Singh and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 17-12-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 149, 435, 447

Citation : (2003) 4 RLW 2124 : (2003) 2 WLC 524 : (2003) 1 WLN 194

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Advocate : K.S. Rathore, for the Appellant; Dinesh Sharma, for R.S. Sharma, for Non-Petitioner No. 2, A.R. Nikkub, Public Prosecutor, for the Appearing Parties

Final Decision : Allowed

Judgement

Panwar, J.—By this criminal miscellaneous petition u/s 482, Cr.P.C. the petitioners have challenged the order dated 24.4.1997 passed by the learned Judl. Magistrate, Ist Class, District Jodhpur whereby the learned Judl. Magistrate took cognizance of offences punishable under Sections 147, 447, 435 read with Section 149, IPC against the petitioners.

2. I have heard learned counsel for the parties. Perused the order impugned dated 24.4.1997 and the relevant material filed by the police before the Court below.

3. On 24.9.1996, Police Station Jhanwar (District Jodhpur) registered first information report No. 146 for offences under Sections 143 447 and 435, IPC on the basis of statement of non- petitioner No. 2 Purkharam-complainant. It was alleged that the complainant is in possessions of agricultural field bearing khasra No. 926, measuring 14 bigha. It was further alleged that in the said field crop was standing and it has been taken away by the present petitioners. However, the case of the petitioners is that by a registered sale deed dated 27.9.1994 non-petitioner No. 2 Purkharam sold the land measuring 14 bigha in khasra No. 926 alongwith agricultural land comprised in khasra 378 and 317, measuring 13

bigha in favour of present petitioner No. 14 Jagdish s/o Magraj Mahajan for a consideration of Rs. 50,000/-. A certified copy of the registered sale-deed Ex.15 is placed on record. The said sale-deed was registered at the office of Sub-Registrar, Jodhpur on 29.9.1994. The recital of the said sale- deed states in clear terms that a sum of Rs. 50,000/- as sale consideration was received by the vendee Purkharam (non- petitioner No. 2) and as such he acknowledged the receipt of the entire sale consideration and physical possession of the agricultural land in question was handed over to petitioner No. 14 Jagdish s/o Magraj Mahajan, the purchaser.

4. Subsequent thereto, non-petitioner No. 2 filed a civil suit before the Civil Judge & Chief Judl. Magistrate, Jodhpur for cancellation of the sale-deed dated 27.9.1994 and seeking possession of the land against petitioner No. 14 Jagdish s/o Magraj Mahajan and others. On 6.9.1996, the parties to that suit struck compromise and non-petitioner No. 2 (plaintiff) Purkha Ram and defendant Jagdish (present petitioner No. 14) filed a written compromise in the civil original suit (No, 33/95) wherein the complainant Purkha Ram categorically stated that the parties have compromised the matter and he (plaintiff Purkha Ram), did not want to prosecute the civil suit any further; In the compromise deed, he admitted the execution of the sale-deed dated 27.9.1994 and stated that since he admits the sale he does not want to seek cancellation of the sale-deed. The plaintiff further admitted that the land in dispute is in cultivatory possession of Jagdish s/o Magraj Mahajan- the present petitioner No. 14. By order dated 10.9.1996, Annex. 19 on the record, the trial Court verified the compromise and dismissed the suit filed by non-petitioner Purkha Ram.

5. The land in dispute was mutated in favour of petitioner No. 14 vide Annex. 20 on 7.2.1995. The revenue record also shows that non-petitioner No. 2 was not in possession of the land in question from 7.2.1995 or from the date of the sale. The entire revenue record shows cultivatory possession of petitioner No. 14 Jagdish and the other agriculturists i.e., the present petitioners besides the petitioner No. 14 Jagdish have been cultivating the land in question at the instance of petitioner No. 14. A civil suit was also filed by petitioner No. 14 against non-petitioner Purkharam for permanent injunction; and, alongwith the suit for permanent injunction an application for temporary injunction u/s 212 of the Rajasthan Tenancy Act was filed before the S.D.O., Jodhpur. In the presence of and after hearing non- petitioner No. 2 who was defendant therein, the learned S.D.O. vide order dated 11.7.1996 prima facie found the petitioner No. 14 in possession of the land by a registered sale- deed and the revenue records. On investigation, the petitioner No. 14 was found to be in cultivatory possession of the land In question and, therefore, non-petitioner No. 2 Purkha Ram was restrained by injunction order from interfering in the cultivatory possession of petitioner No. 14 over the said khasra.

6. Thus from overwhelming material on record it shows that on the relevant date non-petitioner No. 2 was neither in cultivatory possession nor had any rights to

possess the land in question. There is nothing on record to show that the crops standing on the field belonged to the non-petitioner complainant. On the contrary, it is clearly established on the record that the crop belonged to petitioner No. 14 and petitioner No. 14 and other agriculturists i.e., other petitioners were harvesting the crop at the instance of petitioner No. 14.

7. This Court would normally act on the principle that powers u/s 482, Cr.P.C. should be exercised sparingly and with circumspection only when noninterference may result in manifest injustice or when there is evident abuse of the process of court. It is settled law that inherent jurisdiction of this Court u/s 482, Cr.P.C. is meant to prevent failure of justice or abuse of the process of court. The Court's jurisdiction u/s 482, Cr.P.C. is not akin to exercise of revisionary jurisdiction and, therefore, until it is established on record that manifest injustice would be occasioned in the event of non-interference or that there is apparent abuse of the process of court this Court would not interfere in exercise of jurisdiction u/s 482, Cr.P.C. Thus exercise of inherent power u/s 482, Cr.P.C, by this Court should be limited to very extreme exceptions being available under the Code of Criminal Procedure to this Court to prevent abuse of the process of court or otherwise to secure the ends of justice.

8. However, this Court has continuous supervisory jurisdiction u/s 483 of the Code of Criminal Procedure; and, on examination of record, if the Court is satisfied that there is grave miscarriage of justice or abuse of the process of the court or the required statutory procedure has not been complied with or there is failure of justice, in that event, it is but the duty of this Court to have it corrected at the inception. Therefore, to meet the ends of justice or to prevent the abuse of the process of court the High Court has inherent power to interfere in appropriate cases. Where facts and circumstances of the case so warrant it is not only desirable but necessary also to give effect to an order u/s 482, Cr.P.C. lest judicial process should become an instrument of oppression or harassment in the hands of frustrated or vindictive litigants. Admittedly, the complainant non-petitioner No. 2 was neither in possession of the land nor had anything to do with it after having sold the land in question. Thereafter, for a period of at least two years the purchaser (petitioner No. 14 Jagdish) was in peaceful possession of the land and it is the petitioner No. 14 through other petitioners who got cultivated the entire land in question. Besides, any claim, even if presumably the non-petitioner No. 2 had to his right, interest or title, was relinquished by non-petitioner No. 2 by filing the compromise-deed wherein he had in clear terms admitted that he had neither possession nor any cultivatory right over the land in question. On the contrary, he admitted that petitioner No. 14 Jagdish, purchaser of the land, has cultivatory possession and he no longer wanted to contest his title over the land. In the circumstances, allowing an entirely unfounded criminal proceedings would definitely amount to abuse of the process of court and will also cause manifest injustice to purchaser petitioner No. 14 Jagdish. No useful purpose will be served in allowing such proceedings which has no foundation. In this view of the matter, the criminal proceedings launched against the petitioners

cannot be sustained.

9. For the reasons stated hereinabove, this criminal miscellaneous petition is allowed. The criminal proceedings pending against the petitioners in Criminal Case No. 295/1997 in the Court of Judl. Magistrate, District Jodhpur is hereby quashed and set aside. Bail bonds, if any, shall stand discharged.