
(2011) 12 JH CK 0068

In the Jharkhand High Court

Case No : Writ Petition (Cr) . No. 393 of 2011

Sanjay Kumar Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-12-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2011) 12 JH CK 0068

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Judgement

P.P. Bhatt

1. Heard the learned counsel for the petitioner and learned counsel for the State.
2. Perused the papers.
3. Issue notice to the respondent no.9 for which requisites etc. must be filed within first week of January, 2012 under registered cover with A/D as well as through ordinary process.
4. So far as Respondent No. 1 to 8 is concerned, learned counsel for the State waived the service of notice and he has requested for some time to file the counter affidavit in the matter.
5. The instant writ petition has been preferred for quashing the entire criminal proceeding, including the institution of the F.I.R. of Deoghar (Town) P.S. Case No. 386 of 2011 dated 26.11.2011 under sections 420,467,468,471 and 120B of the I.P.C., consequent to G.R. Case No. 1049 of 2011, presently pending in the court of Chief Judicial Magistrate, Deoghar.
6. Learned counsel for the petitioner submitted that on perusal of the F.I.R. it is clear that no criminal offence is made out against the petitioner and the dispute is of civil nature between the parties i.e. petitioner and respondent no.9., but instead of preferring civil case, respondent no.9 has filed such complaint to

harras the petitioner.

7. Having heard the learned counsel for the petitioner and perusing the documents produced, prima facie it appears that petitioner had purchased this land by annexure-4 from registered power of attorney holder, Gopal Nath Mukhopadhyaya and executed in favour of Rajesh Karware and Manikant Verma on 18.9.2004. Thereafter, it appears that as per annexure-5 no objection certificate was given by the Circle Officer to the petitioner to sell the land. Learned counsel for the petitioner invited the attention of this court that vide annexure-6, portion of the land has been sold to one Anju Devi and basis of the sale document is the revenue entry and on the basis of the sale transaction mutation application has been preferred by Anju Devi. Accordingly, entry was also made in the register-2. The sale document is also produced at page 50. Learned counsel for the petitioner further invited the attention of this court to annexure-7 to show that Circle Officer supports its report on the basis of the report submitted by Halka Karmachari. Thereafter, F.I.R was filed on 26.11.2011 by the respondent no. 9. Learned counsel for the petitioner also relied upon some decisions reported in Md. Ibrahim and Others Vs. State of Bihar and Another, .

8. Having regard to the facts and circumstance of the case, prima facie it appears that dispute between the petitioner and respondent No.7 is of a civil nature and the petitioner has prima facie shown from the documents produced along with this petition that petitioner is having right, title and interest in the property and therefore by way of an ad-interim order necessary protection is required to be granted till the next date of hearing.

9. Hence, Respondent No. 1 to 8 shall not take coercive step against the petitioner till the next date of hearing i.e. on 23.1.2012.

10. Let the copy of this order be communicated through FAX in the court below at the cost to be deposited by the petitioner.