
(2011) 02 DEL CK 0105

In the Delhi High Court

Case No : Criminal M.C. 1640 of 2009 and Criminal M.A. 5915 of 2009

Sanjeev Khanna

APPELLANT

Vs

The State (NCT of Delhi)

RESPONDENT

Date of Decision : 07-02-2011

Acts Referred:

Citation : (2011) 02 DEL CK 0105

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : Jayant Nath and Krishna M. Singh, for the Appellant; Sunil Sharma, Addl. PP, Jaivir Singh, SI, K.M. Pur, Dimple Vaid and Akshay Chandra, for DDA, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Narayan Dhingra, J.—By present petition u/s 482 Code of Criminal Procedure the Petitioner has assailed an order passed in revision by the learned Sessions Judge. The Petitioner was booked u/s 420/468/471 IPC vide FIR No. 524 of 2003 registered at Police Station Kotla Mubark Pur. The learned MM, before whom charge-sheet was filed, after considering the arguments of the prosecution and the Petitioner observed that no charge was made out against the accused u/s 468/471 IPC. However, a charge u/s 420 of IPC was made out. Against this order, the Petitioner preferred a revision before learned Sessions Judge. The learned Sessions Judge vide a detailed order dismissed the revision petition discussing provisions of law as well as precedents on the issue. This petition has been filed assailing the order of learned Sessions Judge.

2. It is the settled law that Section 482 Code of Criminal Procedure cannot be used as a Second Revision Petition and the High Court should exercise its inherent powers u/s 482 Code of Criminal Procedure sparingly and in rare cases where it feels that unless power is used justice shall stand defeated. It is not the case in hand. The accused in this case had obtained mutation of the property in his name, left behind by his father, by filing false affidavit, declaration etc. before

DDA that he was the sole legal heir while other legal heirs of his father were very much there and his father had died intestate. By this mutation DDA acknowledged him as the sole proprietor of the property, however, put a rider that if the declaration was found false, the mutation shall be cancelled. Later on other legal heirs discovered about this forgery made by the Petitioner and made application to DDA and the mutation was reversed.

3. I consider it is not a case where no cheating has taken place. The contention of the counsel for the Petitioner that since mutation was reversed and mutation was not a proof of ownership, no case u/s 420 IPC was made out. I think recovery of the cheated property back does not take away the charge of cheating. Mutation may not be a proof of title in certain circumstances, but, mutation of leasehold property registered with DDA in his own name would have given a right to the Petitioner to claim the entire property under his sole ownership. I therefore consider that this ground is not available to the Petitioner. This petition is liable to be dismissed and is hereby dismissed.