
(2014) 02 JH CK 0022
In the Jharkhand High Court
Case No : Criminal M.P. No. 1989 of 2013

Smt. Malti Singh	Vs	APPELLANT
The State of Jharkhand and Another		RESPONDENT

Date of Decision : 03-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 4
Penal Code, 1860 (IPC) — Section 120B 406 409 415 419
Registration Act, 1908 — Section 19 21 82 83

Citation : (2014) 02 JH CK 0022

Hon'ble Judges : R.R. Prasad, J

Bench : Single Bench

Advocate : Mahesh Tiwari, for the Appellant;

Final Decision : Dismissed

Judgement

R.R. Prasad, J.—Heard learned counsel appearing for the petitioner and learned counsel appearing for the State. Learned counsel appearing the petitioner submits that this application has been filed for quashing of the First Information Report of Dhanbad P.S. Case No. 21/2013 registered under Sections 406/409/420/467/468/469/471/120B of the Indian Penal Code.

2. Mr. Mahesh Tiwari, learned counsel appearing for the petitioner submits that when one Rajni Kant P. Chouhan executed a deed of sale registered in favour of Smt. Malti Singh, it was presented before the Sub Registrar, Dhanbad for its registration. Upon executant, being identified by the witnesses, the said deed of sale was registered. Thereafter, it does appear that one Silpy Rai made a complaint before the Deputy Commissioner, Dhanbad to the effect that the registration has been done by the act of impersonation and thereby, the Deputy Commissioner, Dhanbad, directed the Sub Registrar to lodge the case u/s 83 of the Registration Act, 1908. The Sub Registrar, accordingly, lodged the case, after making preliminary inquiry and coming to the finding that the sale deed got registered by an act of impersonation. He lodged the case, which was registered

as Danbad P.S. Case No. 21/2013, not u/s 83 of the Registration Act, 1908, but under Sections 406/409/420/467/468/469/471/120B of the Indian Penal Code. Under that situation, when offences alleged falls within the domain of Special Legislation i.e. Registration Act, one cannot be allowed to be prosecuted under the General law.

3. Learned counsel in this regard has referred to a provision as contained in Section 82 of the Registration Act, 1908, which reads as follows:-

Section 82. Penalty for making false statements, delivering false copies or translations, false personation, and abatement.- Whoever-

(a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act;

(b) intentionally delivers to a registering officer, in any proceeding u/s 19 or Section 21, a false copy or translation of a document, or a false copy of a map or plan; or

(c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or inquiry under this Act; or

(d) abets anything made punishable by this Act, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

4. By referring to that provision, it was submitted that if one falsely personates another for getting a deed of sale registered, he can be very well prosecuted under the Registration Act and, thereby, the offence of forgery or offence u/s 419 will have no application.

5. But here in the instant case, the case has been registered not for the offence u/s 82 of the of the Registration Act, 1908 but for the offences under the General Law and thereby, the petitioner cannot be allowed to be prosecuted and hence, First Information Report is, fit to be set aside.

6. Learned counsel, in support of his submission, has referred to decisions rendered in the cases of Sudip Kumar Mukhopadhyay and Others Vs. The State of Jharkhand, and Adarsh Chilukuri vs. Union of India (2013 (1) 508 (HC) JBCJ) wherein it has been held that if the allegation falls within the domain of any Special Legislation, the person cannot be allowed to be prosecuted under the General Law, in view of the provision as contained in Section 4 of the Code of Criminal Procedure.

7. There has been absolutely no dispute with respect to proposition of law, which has been laid down in the cases referred to above.

8. It has been well settled that if the allegation falls within the domain of any Special Legislation, then the person cannot be allowed to be prosecuted under General Law.

9. Here it is the case of the prosecution that one person impersonating Rajni Kant P. Chouhan executed a deed of sale in favour of Smt. Malti Singh.

10. In such situation, one would be prosecuted u/s 82 of the Registration Act, which does prescribe penalty for making false statement, delivering false copies or translations, false personation and abatement. If that is the situation, then certainly, one would be prosecuted under the Registration Act for alleged act of impersonation.

11. However, at the same time, if any other offences under other Act, gets attracted on the allegation made in the complaint, that cannot be allowed to be stalled only for the reason that police has wrongly lodged the case for false personation under the General Law. In other words, if the allegation does constitute other offences, then the question of quashing of the First Information Report does not arise. Keeping in view, the allegations made in the First Information Report vis-a-vis, one of the illustrations of Section 415 of the Indian Penal Code, one would find prima facie that offences under the Indian Penal Code, get attracted, which I am not dealing with in detail, as it would be prejudicial to the case of the petitioner. Under the circumstances, question of quashing of the First Informational Report does not arise.

12. Accordingly, I do not find it a fit case for quashing of the First Information Report.

13. However, the petitioner would be at liberty to raise the point at an appropriate stage. With these observations, this application stands dismissed.