

(2007) 12 UK CK 0020

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 279 of 2003

Smt. Seema Patwal

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 18-12-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406, 427, 506

Citation : (2007) NCC 289

Hon'ble Judges : B.C.Kandpal, J

Bench : Single Bench

Advocate : Vinod Sharma, for the Appellant; A.K. Gautam, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble B.C. Kandpal, J.—By way of this petition u/s 482 of Cr.P.C. the petitioner, who is facing trial in criminal case no. 1572 of 2003, State vs. Lok Pal Singh and others, arising out of Case Crime No. 82/2003, under Sections 406, 506, 427 of IPC, pending before the court of Chief Judicial Magistrate, Dehradun, has prayed for quashing the proceedings of the aforesaid case. Brief facts giving rise to this petition are that a First Information Report was lodged by respondent no. 2 about the incident dated 10.4.2000 after a lapse of more than three years, under sections 406, 506 and 427 of IPC and as per the allegation an agreement was executed on 10.4.2000 between the petitioner and husband of respondent no. 2 (Satendra Singh Rawat) and through this agreement Satendra Singh Rawat purchased a land from the petitioner but after several requests made by respondent no. 2 the petitioner did not execute the sale deed in favour of the respondent no. 2. The First Information Report further reveals that the petitioner thereafter demolished the construction raised by husband of respondent no. 2 over the plot in question and evicted respondent no. 2 along with her husband from the plot in question. It further reveals from the First Information Report that the petitioner thereafter filed a suit for injunction before the court of Civil

Judge (Senior Division) Dehradun and obtained the stay order, due to which further construction over the disputed plot was stopped. The police after investigation of the case submitted charge sheet on 31.5.2003 against the petitioner.

2. Feeling aggrieved by the submission of the charge sheet, the petitioner has approached this Court by way of this petition u/s 482 of Cr.P.C.

3. Heard Sri Vinod Sharma, learned counsel for the petitioner, learned A.G.A. for respondent no. 1, Sri A. K. Gautam, learned counsel for respondent no. 2 and perused the record.

4. The petitioner has filed Annexure-2 to the petition which is an agreement between the husband of respondent no. 2 (Satendra Singh Rawat) and the petitioner which indicates that the petitioner had obtained Rs. 2,20,000/- as cost of the land from Satendra Singh Rawat (husband of respondent no. 2). Further, Annexure-3 which is contained with the petition shows that Satendra Singh Rawat cancelled the agreement between the parties by way of this document and he has also stated there that after the cancellation of the agreement he has no connection with the land in question. By way of this annexure it also reveals that Satendra Singh Rawat had received an amount of Rs. 2,30,000/- from the petitioner.

5. The aforesaid documents which are contained as Annexures-2 and 3 to the petition have been admitted by respondent no. 2 and in the counter affidavit it has been mentioned that the agreement took place between the parties and thereafter husband of respondent no. 2 received an amount of Rs. 2,30,000/- from the petitioner.

6. Perusal of material available before me therefore reveals that the allegations which have been contained in the complaint are of civil nature and do not prima facie disclose commission of alleged criminal offence u/s 406, 506 and 427 of I.P.C. The Magistrate while taking cognizance in the matter has not considered the charge sheet submitted by the police in a correct perspective. It also appears that the complaint in this case has been made against the petitioner only in order to harass her.

7. For the reasons stated above, I do not find any good ground to maintain the order passed by the Magistrate taking cognizance in the matter and to my mind, in case, if the prosecution is permitted to continue, the same would amount to abuse of process of court and certainly flagrant injustice would be caused to the petitioner. In my considered opinion, it is a fit case for quashing the proceedings against the petitioner u/s 406, 506 and 427 of I.P.C. Accordingly, the petition is allowed. The proceedings in criminal case no. 1572 of 2003, State vs. Lok Pal Singh and others, arising out of Case Crime No. 82/2003, under Sections 406, 506, 427 of IPC, pending before the court of Chief Judicial Magistrate, Dehradun, are hereby quashed.