
(2006) 10 JH CK 0022
In the Jharkhand High Court

Vidya Pandey

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 17-10-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 182, 202, 482
Penal Code, 1860 (IPC) — Section 419, 420, 467, 468, 471

Citation : (2007) 1 JCR 80

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.K. Sinha, J.—The petitioner has preferred this petition u/s 482 Cr PC for quashing of the order impugned passed by the C.J.M., Palamau at Dallonganj in Complaint Case No. 785/04 on 24.1.2005 whereby and whereunder the cognizance of the offence was taken u/s 419/420/467/468/471/504, IPC and the case record is presently pending in the Court of Shri R.K. Mishra, Judicial Magistrate, 1st Class, Daltonganj, Palamau.

2. The brief fact of the case is that the maternal grand mother of the complainant had given 2.04 decimals of land of village Tirondha appertaining to Khata No. 26, Plot No. 311 to the mother of the complainant by registered deed of gift No. 2777 dated 31.3.1980 and thereafter the mother of the complainant came in peaceful possession over the said land. The land was also mutated in her name and she obtained the rent receipts on payment of the rent of the land. The mother of the complainant died on 27.12.1985 and thereafter the land came into the peaceful possession of the complainant. The complainant further stated that in the year 2004 when he went to pay the rent of the said land it was pointed out by the Karamchari that the said land was transferred in favour of the petitioner in the year 1999 itself against the registered sale-deed. The complainant verified the matter in the Registration Office and after finding the fact true went to the petitioner and asked as to when his mother died in the year 1985 then how he

purchased the same from her in the year 1999 to which there held altercation and hence the case. The complainant further stated that he obtained certified copy of the sale-deed and it was gathered that by putting someone on the place of her mother the petitioner got the land in question transferred in his favour by registered sale-deed No. 10050 and in this manner the petitioner and another have cheated him.

3. Mr. P.C. Tripathy, learned Counsel appearing on behalf of the petitioner submitted that the petitioner has neither committed cheating nor forgery in any manner and the present case has been brought about In order to harass, humiliate and to extort money from the petitioner. The cognizance of the offence was taken by the C.J.M. without enquiry u/s 202 and examining any witness on behalf of the complainant. It is further submitted that the case was instituted after 5 years of the alleged execution of the sale-deed and if at all the complainant had got grievance, the same may be remedied in the Court of civil jurisdiction.

4. Finally it has been submitted that the document in question i.e. the registered sale-deed duly executed by the mother of the complainant in the year 1999 is unimpeachable document and therefore, the prosecution of the petitioner is not sustainable.

5. On the other hand, learned Counsel appearing on behalf of the O.P. No. 2 submitted that the clear cut case of the complainant was that the petitioner and another by putting imposter got the land transferred in favour of the petitioner in the year 1999 by registered sale-deed of the land which was in the name of his mother and had died much earlier.

6. Having regard to the facts and circumstances of the case, I do not find any irregularity in taking the cognizance of the offence without examining any witness on behalf of the complainant and that taking of cognizance is the subjective satisfaction of the Chief Judicial Magistrate concerned. So far the nature of allegation is concerned, the same cannot be examined at this stage on the petition of the petitioner u/s 482, Cr PC without examining the documents produced on behalf of the par-Lies on the face value of deception as alleged in the complaint petition. The order of the cognizance passed by the C.J.M., Daltonganj. Palamau on 24.1.2005, in the facts and circumstances of the case, does not call for interference of this Court in exercise of the jurisdiction u/s 182, Cr PC and hence this petition is rejected.

This order will not in any manner prejudice the Court below in considering the bail of the petitioner if he surrenders within 20 days.