
(2011) 07 UK CK 0079

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 922 of 2005

Yugraj and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 25-07-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2011) 07 UK CK 0079

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Servesh Kumar Gupta, J.—Heard learned Counsel for the parties and perused the entire material available in the file.

2. This application u/s 482 Code of Criminal Procedure has been moved by the applicants praying to set aside and quash the chargesheet and the impugned summoning/cognizance order dated 18.5.2005 passed by the Judicial Magistrate, Roorkee in case No. 1045 of 2005 (crime No. 14/2005) State v. Yugraj Singh u/s 420/406 IPC pertaining to P.S. Kotwali Roorkee, District Haridwar.

3. It appears that on 7.7.2003, a sale deed was executed by the Petitioners 1 to 5 collectively to Sri Ashraf and Barkat pertaining to the land Chak No. 178 Khasra No. 63/1, area 0.272 hectares situated in village Makhdumpur, Pargana Manglaur, Tehsil Roorkee. This deed was executed by the Petitioners to the complainant at the strength of a revenue paper named "Bhumi Jot Chakbandi Aakar Patra 23 [Part-I]", wherein on the death of father of the Petitioners, namely Sri Babu Ram, the above land was recorded in their names.

4. It is pertinent to mention here that the originally this land was owned by father of Babu Ram, named Dharam Singh and on the death of Dharam Singh, it was inherited by Babu Ram and on the death of Babu Ram, it was inherited by

the Petitioners/applicants, as shown in the revenue records.

5. It was revealed to the complainant that the said land was sold by Sri Babu Ram to one Chandravati during his lifetime and it was also averred in the F.I.R. that these Petitioners were registering the name of their sister upon the ownership of this land at the strength of some forged will, allegedly executed by Sri Babu Ram.

6. The fact remains that this land was owned by the ancestors of the Petitioners and Babu Ram inherited it from his father Dharam Singh, who was not competent to make either the sale deed or the will to nobody else regarding the entire land, which he inherited from his father. The fact also remains that at the time of executing the sale deed on dated 7.7.2003, the names of all these Petitioners were recorded in the ownership column of the revenue record, as is adverted from the paper Annexure 3 filed with the affidavit of the Petitioners. This document shows that in proceedings No. 61 dated 15.10.2001 passed by Assistant Consolidation Officer, Lakhnaut, the Chak No. 178 (subject matter of dispute) was recorded in the name of Petitioners/applicants Smt. Kashmiri W/o Babu Ram and Yugraj, Uttam Singh, Ajay Singh and Vikas Singh, sons of Babu Ram. So, prima facie there appears no reason to reflect any cheating or forgery or any other offence, as envisaged in the chargesheet filed by the Investigating Officer after investigation.

7. In the above circumstances, the petition moved u/s 482 Code of Criminal Procedure has force and it is allowed. The cognizance order passed by the Magistrate as well as the chargesheet filed, as aforementioned, are quashed.