

Ramesh Johari Vs. Prem Narayan

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Court : Madhya Pradesh

Decided On : Jul-18-2012

Appellant : Ramesh Johari

Respondent : Prem Narayan

Judgement :

Criminal Appeal No.76/2011 18.07.2012 Shri Kunal Dubey, Advocate for the appellant.

Heard on admission.

The appellant has preferred this appeal against the order dated 19.11.2010 passed by the 11th Additional District Judge, Jabalpur in MJ.No.16107/2006 whereby the application filed by the appellant under Section 340 of Cr.P.C.was dismissed.

The facts of the case are that a decree was directed by the trial Court to give possession of a particular property.

It is alleged that the map provided by the respondents to the Process Server was faulty, and therefore possession of the open courtyard was also given to the respondents.

Forgery was done in the copy of the map by the respondents, and therefore an application under Section 340 of Cr.P.C.was moved before the trial Court that a

complaint under Section 195 of Cr.P.C.for commission of offence may be prosecuted against the respondents.

The learned Additional District Judge after considering the application, found that the possession was given by the Process Server according to the decree passed against the appellant, and therefore no forgery is visible.

No offence is made out for which a complaint under Section 195 of Cr.P.C.could be filed, therefore application filed under Section 340 of Cr.P.C.by the appellant was dismissed.

After considering the submission of the learned counsel for the appellant, it appears that the appellant was a tenant in the suit premises and a decree of eviction was passed, therefore there was no possibility for a tenant to retain a particular open courtyard.

The copy of the decree including the map was provided to the Process Server in a proper manner.

It is nowhere clear that the respondents modified the map given to the Process Server, because the map given to the Process Server was photocopy of the map annexed with the decree bearing signature of the then Additional District Judge, Jabalpur.

Under such circumstances, the appellant could not prove that the respondents fabricated false evidence or they have done any offence for which a complaint within the purview of Section 195(1)(b) of Cr.P.C.may be prosecuted.

Under such circumstances, the trial Court has rightly rejected the application of the appellant filed under Section 340 of Cr.P.C.On the basis of aforesaid discussion, the instant appeal filed by the appellant under Section 341 of Cr.P.C.appears to be not acceptable.

Accordingly, it is hereby dismissed at motion stage.

(N.K.Gupta) Judge Ansari