

Niranjan Kumar Dosi Vs. State

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Court : Rajasthan

Decided On : Aug-24-2006

Reported in : RLW2007(1)Raj6

Judge : Harbans Lal, J.

Appellant : Niranjan Kumar Dosi

Respondent : State

Disposition : Petition dismissed

Judgement :

Harbans Lal, J.

1. The instant petition under Section 482 Cr.P.C. is directed against the order dated 13.4.2006 passed by the learned Special Judge (Sati Nivaran), Jaipur-cum-Addl. Sessions Judge, Jaipur in Criminal Revision No. 191/2005 whereby the revision has been dismissed and the order dated 9.3.2004 passed by the learned Addl. Chief Judicial Magistrate No. 4, Jaipur City, Jaipur framing charge under Section 420 IPC has been upheld.

2. The relevant facts are that one Kesari Singh Duggad lodged a report at P.S. Bani Park, Jaipur for the offence under Section 420 IPC against the petitioner and others with the allegations that they practised deceptions on him by falsely

assuring him that they would get a land situated near Anasagar in Ajmer purchased and thereby obtained various cheques in the names of several persons amounting to a total Rs. 4,56,400/-, but they did not get the said land transferred to him and instead sold the plots of the said land to various people on the basis of documents got executed from him. On the basis of the said report, a case for the offences under Sections 420, 467 and 468 IPC was registered, but it appears that the parties entered into a written agreement on 3.11.1995 on the basis of which negative final report was submitted on 8.11.1995. The complainant, however, filed a protest petition on 1.5.1997. After recording of the statements under Sections 200 and 202 Cr.P.C., cognizance was taken against the petitioner and others for the offence under Section 420 IPC vide order dated 9.3.2004 and charge was also framed against them for the said offence which order was challenged by way of revision petition before the learned court below which was dismissed as indicated above. Hence, this petition.

3. Learned Counsel for the petitioner has solely assailed the impugned order on the ground that the learned court below has wrongly held that the cause of action arose within the jurisdiction of the Court at Jaipur whereas the land in question is situated at Ajmer and the new agreement was also written at Ajmer on 3.11.1995, though the initial agreement was written and attested at Jaipur. The order of the learned court below is, therefore, an abuse of the process of the Court which should be set aside to secure the ends of justice. In this regard, reliance has been placed on the case of *Y. Abraham Ajith and Ors. v. Inspector of Police, Chennai and Anr.* : 2004 CriLJ4180 . Learned Public Prosecutor has supported the impugned order.

4. I have considered the respective submissions and have perused the order of the learned trial Court dated 9.3.2004 as well as the revisional court dated 13.4.2006.

5. A bare perusal of the order of the learned trial Court reveals that the objection with regard to lack of jurisdiction of the court does not appear to have been raised before the trial Court, however, the same, has been raised before the revisional Court. The learned revisional Court has discussed the contention raised in this

behalf in sufficient detail and to my mind properly and rightly rejected the said objection with regard to lack of jurisdiction after due consideration of the materials on record. The court below has noted that the alleged deception has been practised at Jaipur and the cheques of varying amounts have also been wrongly obtained at Jaipur. The mere fact that the new agreement dated 3.11.1995 was entered into at Ajmer does not give rise to the cause of action and on its basis, jurisdiction of the court at Jaipur cannot be ousted. So far as the law laid down by the Hon'ble Apex Court in the aforementioned authority is concerned, there cannot be any two opinions. But the facts of the said case are clearly distinguishable from the facts of the present case. In the instant case, the jurisdiction of the court is to be decided on the basis of the allegations in the FIR and the materials collected in support thereof. There is nothing in the FIR or the statements recorded under Sections 200 and 202 Cr.P.C. to infer that the cause of action has arisen at Ajmer.

6. This apart, the instant petition under Section 482 Cr.P.C. seems to have been filed to circumvent the bar on filing of second revision provided under Section 397(3) Cr.P.C. and as per the settled law the inherent powers of this Court cannot be exercised as a substitute for second revision. There is neither any abuse of the process of the court nor it is otherwise expedient in the interest of justice to exercise the inherent powers of this Court in this case of securing the ends of justice.

7. In this view of the matter, therefore, neither this petition under Section 482 Cr.P.C. is maintainable nor there is any pith and substance in the petition so as to call for and justify exercise of inherent powers of this Court under Section 482 Cr.P.C.

8. Consequently, this petition is hereby dismissed.