

Vijay Kumar Vs. State and anr.

Vijay Kumar Vs. State and anr.

SooperKanoon Citation : sooperkanoon.com/768498

Court : Rajasthan

Decided On : Aug-23-2006

Reported in : RLW2007(1)Raj720

Judge : Harbans Lal, J.

Appellant : Vijay Kumar

Respondent : State and anr.

Disposition : Petition allowed

Judgement :

Harbans Lal, J.

1. This petition under Section 482 Cr.P.C. seeks quashing of the FIR No. 151/1989 as well as the order dated 4.2.1997 taking cognizance against the petitioner for offence under Section 379 IPC.

2. The instant petition has arisen in the following circumstances:

3. Plot No. G-9 measuring about 1210 sq. meters situated in industrial area was allotted by the RIICO to Shri Ramavtar Kamdar non-petitioner No.2 on 14.2.1977 but he failed to comply with the terms and conditions of allotment whereupon the said allotment was cancelled and the plot in question was allotted to the wife of the petitioner on 20.2.1988. Thereafter, non-petitioner No. 2 filed a suit in the court of

learned Additional Munsif-cum-Judicial Magistrate, Jaipur, Kishangarh which was returned for filing the same in the proper court. Thereafter, non-petitioner No. 2 filed a fresh suit in the court of Additional District @ Sessions Judge, No. 6, Jaipur City, Jaipur on 13.8.1991 along with the application of temporary application which was dismissed. Non-petitioner No. 2 lodged an FIR No. 16/1988 for offences under Sections 447 and 427 IPC in which after investigation negative final report was filed. Non-petitioner No. 2 filed a protest petition in the court whereupon cognizance was taken against the petitioner. The petitioner challenged the order before this Court and this Court vide a detailed order dated 23.9.2003 not only allowed the petition and set-aside the order of cognizance but also observed in unambiguous terms that the land in question was in the possession of the wife of the petitioner but non-petitioner No. 2 again lodged an FIR wherein also police after investigation filed negative final report and the court again took cognizance on 4.2.1997 which order is under challenge in this petition.

4. I have heard learned Counsel for petitioner as well as learned Public Prosecutor for the State and have perused the relevant documents placed before me.

5. In view of the materials placed on record and the aforesaid facts which are not in dispute the F.L.R. lodged against the petitioner and the cognizance taken clearly tantamount to abuse of the process of the court particularly in view of the observations of this Court in S.B. Cr. Misc. Application No. 675/92 decided on 23.1.1993 and the same deserves to be quashed for securing the ends of justice and to prevent the abuse of the process of the court.

6. Consequently, the petitioner Under Section 482 Cr.P.C. is allowed and F.I.R. No. 152/1989 for offence under Section 379 IPC as also the order dated 4.2.1997 passed by the learned Civil Judge (Junior Division) cum-Judicial Magistrate, Kishangarh, Distt. Ajmer is quashed and set-aside.