

Sanjeev Khanna Vs. the State (Nct of Delhi)

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Court : Delhi

Decided On : Feb-07-2011

Judge : SHIV NARAYAN DHINGRA, J.

Acts : Code Of Criminal Procedure (CRPC) - Section 482; Indian Penal Code,(IPC) - Section 420

Appeal No. : CRL. M.C. 1640 of 2009 with CrI. M.A. 5915/2009

Appellant : Sanjeev Khanna

Respondent : The State (Nct of Delhi)

Advocate for Def. : Mr. Sunil Sharma; SI Jaivir Singh, Advs.

Advocate for Pet/Ap. : Mr. Jayant Nath, Adv.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

1. By present petition under Section 482 Cr.P.C. the petitioner has assailed an order passed in revision by the learned Sessions Judge. The petitioner was booked under Section 420/468/471 IPC vide FIR No. 524 of 2003 registered at Police Station Kotla Mubark Pur. The learned MM, before whom charge-sheet was filed, after considering the arguments of the prosecution and the petitioner observed that no charge was made out against the accused under Section 468/471 IPC. However, a charge under Section 420 of IPC was made out. Against this order, the petitioner preferred a revision before learned Sessions Judge. The learned Sessions Judge vide a detailed order dismissed the revision petition discussing provisions of law as well as precedents on the issue. This petition has been filed assailing the order of learned Sessions Judge.

2. It is the settled law that Section 482 Cr. P.C. cannot be used as a Second Revision Petition and the High Court should exercise its inherent powers under Section 482 Cr. P.C. sparingly and in rare cases where it feels that unless power is used justice shall stand defeated. It is not the case in hand. The accused in this case had obtained mutation of the property in his name, left behind by his father, by filing false affidavit, declaration etc. before DDA that he was the sole legal heir while other legal heirs of his father were very much there and his father had died intestate. By this mutation DDA acknowledged him as the sole proprietor of the property, however, put a rider that if the declaration was found false, the mutation shall be cancelled. Later on other legal heirs discovered about this forgery made by the petitioner and made application to DDA and the mutation was reversed.

3. I consider it is not a case where no cheating has taken place. The contention of the counsel for the petitioner that since mutation was reversed and mutation was not a proof of ownership, no case under

Section 420 IPC was made out. I think recovery of the cheated property back does not take away the charge of cheating. Mutation may not be a proof of title in certain circumstances, but, mutation of leasehold property registered with DDA in his own name would have given a right to the petitioner to claim the entire property under his sole ownership. I therefore consider that this ground is not available to the petitioner. This petition is liable to be dismissed and is hereby dismissed.

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