

Jagdish Singh Chauhan. Vs. State of U.P. and Another.

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Court : Allahabad

Decided On : Jul-02-2010

Judge : A.K. Roopanwal, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 417, 420, 467, 468, 471 ; [Code of Criminal Procedure \(CrPC\) \(Cr.P.C.\) 1973](#) - Section 482 ;

Appeal No. : Criminal Misc. Application No.7500 of 2004.

Appellant : Jagdish Singh Chauhan.

Respondent : State of U.P. and Another

Advocate for Def. : AGA, Adv.

Advocate for Pet/Ap. : Mr. Dharmendra Singhal, Adv.

Judgement :

1. This application under Section 482, Cr.P.C. has been moved for quashing the entire proceedings of case no.1072/IX/02 arising out of case crime no.281/02, under Sections 417, 420, 467, 468, 471, IPC.

2. It appears from the record that an application under Section 156(3), Cr.P.C. was moved by O.P. No.2 Sri Naval Kishore Das alleged Chela of Shri Nimbark Sharan Ji in the court of the Additional CJM, Mathura alleging therein that Guru Nimbark Sharan Ji Maharaj was his Guru, who died in Vrindavan, District Mathura in the night between 12/13.2.81. Shri Nimbark Sharan Ji Maharaj and Prem Bihari had

two plots of land at Dalwanal Kund, Vrindavan. After the death of Shri Nimbark Sharan Ji Maharaj the informant remained in possession over the aforesaid plots. Informant was coronetted as Mahant in place of Shri Nimbark Sharan Ji Maharaj. The informant after getting the plan approved by Nagar Palika and Development Authority in the year 1993 constructed 12 rooms, latrine, bathroom etc. on the aforesaid plots. Prem Bihari Sharan chela of Kunj Bihari Sharan, r/o Nikunj Vatika, Madhav Vilas, Vrindavan executed sale deed of the aforesaid plots on 1.9.95 in favour of Jagdish Agrawal and Jagdish Singh Chauhan knowing well that he was not the owner of the plots. The informant came to know about the aforesaid sale deed when the purchasers came to him to grab the land.

3. On the application a case was registered with the police and after investigation charge sheet was submitted against Prem Bihari, Jagdish Agrawal and the applicant. Heard Mr. Dharmendra Singhal, learned counsel for the applicant, learned AGA for the State and perused the record. None appeared for O.P. No.2. It has been argued by Mr. Singhal that the seller of the plot Mr. Prem Bihari was the owner of the plots and he was declared so by the High Court and the Supreme Court. He was the owner as the original owner Shri Nimbark Sharan Ji Maharaj had executed a will in his favour (in favour of Prem Bihari), therefore, it cannot be said that any forgery or cheating was ever committed by Prem Bihari or by the applicant. In support of the argument reliance has been placed on the judgment of the High Court as well as of the Supreme Court marked as annexure-1 and 2 respectively of this application.

4. From the above annexures it appears that the informant was never held to be the owner of the plots in question and therefore, he could not have any grievance against the applicant. Not only this that the informant could not have any grievance against the seller or the purchaser there is one more reason on which this application is liable to be allowed. It appears from the record that the main dispute in the case was about the genuineness of the will and the sale deed alleged to have been executed by Prem Bihari claiming to be the Chela of Shri Nimbark Sharan Ji Maharaj.

5. This dispute was purely of civil nature and could have been decided only by the competent civil court. Unless the civil court recorded the finding that the will was forged and the seller Prem Bihari was not the owner of the plots then only criminal liability could have been fastened upon the seller and purchaser and that too by proving that they had fraudulently executed the sale deed. As the informant, inspite of the fact that his ownership was never held by the civil court, proceeded to take recourse in the criminal proceeding.

6. Hence, the proceedings cannot be allowed to continue in view of 2008(60) ACC 1, Inder Mohan Goswami and another v. State of Uttaranchal and others in which it has been held that in the garb of criminal proceedings redressal of civil grievances cannot be obtained. In view of the above, the application under Section 482, Cr.P.C. is allowed and the entire proceedings of case no.1072/IX/02 arising out of case crime no.281/02, under Sections 417, 420, 467, 468, 471, IPC, P.S. Sadar Bazar, District Mathura, pending before the IVth ACJM, Mathura are quashed.

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