

Champa Lal and ors Vs. State and anr

Champa Lal and ors Vs. State and anr

SooperKanoon Citation : sooperkanoon.com/973556

Court : Rajasthan Jodhpur

Decided On : May-30-2012

Appellant : Champa Lal and ors

Respondent : State and anr

Judgement :

SB Criminal Misc. Petition No.726/2012 Champa Lal & Ors. Vs. State of Rajasthan & Anr. (1) IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR. ::: JUDGMENT ::: S.B. Criminal Misc. Petition No.726/2012 Champa Lal & Ors. vs. State of Raj. & Anr. Date of Judgment ::

30. May, 2012. HON'BLE MR. JUSTICE SANDEEP MEHTA Mr.Vineet Jain, for the petitioners. Mrs.Chandralekha, PP, for the respondent State. None present for the respondent no.2. ... BY THE COURT : Heard learned counsel for the parties. The instant misc. petition has been preferred by the petitioners seeking quashing of the proceedings of the F.I.R. No.343/2011 registered against the petitioners at P.S. Udai Mandir, District Jodhpur for the offences under Sections 420, 467, 468, 471 and 120B IPC. Succinctly stated the facts necessary for the disposal of the instant misc. petition are that the complainant/ respondent no.2 lodged a report at P.S. Udai Mandir alleging inter alia that he had purchased plot no.736 located SB Criminal Misc. Petition No.726/2012 Champa Lal & Ors. Vs. State of Rajasthan & Anr. (2) at Boranada, Tehsil Luni, District Jodhpur. He sold the plot to one Leela Devi by registered sale deed on 18.10.2010. It was further alleged that Leela Devi had purchased the said plot from the complainant's daughter Rina Mertia through

a registered sale deed dated 16.8.2010. It was further alleged in the FIR that the complainant's daughter had purchased plot from the petitioner no.2 Shri L.Rangraj by a registered sale deed dated 30.3.2010 and at the time of sale, the seller informed the complainant that the original property documents had been lost which would be handed over to the purchaser as soon as the same were found. When the complainant was having his plot cleaned by engaging labourers, the petitioners no.2 and 3 came there with certain other persons and told the complainant that they owned the plot. When the complainant received this information, he made enquiries and was shocked to learn that the petitioner no.2 had executed a power of attorney in favour of the accused no.2 Kailash Narain and that Kailash Narain on the basis of power of attorney, sold the said plot to his wife Sangeeta accused no.3. When the complainant allegedly confronted the petitioner no.2 with these facts, the petitioner no.2 is alleged to have told him that he had not executed any such power of attorney in favour of Kailash Narain and that Kailash Narain had forged the power of attorney and thereafter using the forged power of SB Criminal Misc. Petition No.726/2012 Champa Lal & Ors. Vs. State of Rajasthan & Anr. (3) attorney, sold the plot to his own wife. The F.I.R. with the aforesaid allegations was registered at P.S. Udai Mandir as F.I.R. No.343/2011 for the offences under Sections 420, 467, 468, 471 and 120B IPC. The instant misc. petition has now been filed by the petitioners challenging the FIR impugned. The contention which has been made in the instant misc. petition is that subsequent to the lodging of the FIR impugned, the complainant filed a civil suit in the court of Additional Civil Judge (Junior Division) No.3, Jodhpur seeking cancellation of sale made by Kailash Narain in favour of his wife. It is further submitted that in the civil suit, the parties arrived at a compromise and on the basis of the compromise, the suit was decreed in favour of the complainant and the registered sale deed executed in favour of Sangeeta was declared to be void. These documents have been placed on the record of the instant miscellaneous petition. In view of the compromise having been arrived at between the parties, the petitioners were permitted to appear before the investigation officer and the investigation officer was directed to make the investigation from all the concerned persons as regards the alleged compromise. The investigation officer has submitted his report through the learned Public Prosecutor admitting that the compromise SB Criminal Misc. Petition

No.726/2012 Champa Lal & Ors. Vs. State of Rajasthan & Anr. (4) was verified and admitted to be genuine by the complainant but it was stated in report that since the power of attorney appeared to be suspicious and the expert report regarding the same was yet to be procured and, therefore, the FIR should not be quashed by this Court in exercise of its inherent powers. The learned counsel for the petitioners submits that the matter was essentially arising from a dispute of civil rights between the parties and now the disputes have been settled by way of the compromise filed before the civil court and verified during the course of the investigation. Thus, it is prayed that the FIR impugned deserves to be quashed by this Court in the exercise of its inherent powers under Section 482 Cr.P.C. Notice was issued to the respondent no.2 but despite service, the respondent has not put in appearance. Learned Public Prosecutor has opposed the misc. petition but does not dispute the fact that the parties have arrived at compromise in relation to the dispute for which the FIR has been filed, before the civil court as well as before the investigation officer. Having considered the arguments advanced at the bar and after going through the impugned FIR, the civil suit filed by the parties and the judgment and decree passed thereupon on 28.2.2012, this Court is of the opinion that in SB Criminal Misc. Petition No.726/2012 Champa Lal & Ors. Vs. State of Rajasthan & Anr. (5) view of the guidelines issued by the Hon'ble Apex Court in the case of Shiji alias Pappu Vs. Radhika & Anr., 2011 (13) JT 180.as the dispute between the parties is essentially of purely personal nature and prima-facie appears to have arisen out of civil transactions, it is expedient in the interest of justice that the proceedings pursuant to the FIR impugned should not be permitted to be continued for the reason that the parties have already compromised the matter and the compromise application has also been filed and acted upon by the civil court and the compromise has also been verified by the investigation officer. In this view of the matter, the instant misc. petition succeeds and the proceedings of the F.I.R. No.343/2011 registered against the petitioners at P.S. Udai Mandir, District Jodhpur are hereby quashed. Stay petition also stands disposed of. (SANDEEP MEHTA), J.

S.Phophaliya