

Court No. - 92

Case :- APPLICATION U/S 482 No. - 45246 of 2013

Applicant :- Smt. Pooja Agrawal And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- J.P.S.Chauhan

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri J.P.S. Chauhan, learned counsel for applicants and Sri Prem Prakash Tiwari, learned AGA for State are present.

2. The instant application, under Section 482 Cr.P.C., has been filed seeking quashing of entire proceedings of Complaint Case No. 246 of 2013, Subhas Chand v. Vishal Agarwal, under Sections 323, 504, 506 IPC, Police Station Nagal, District Bijnor as well as summoning order dated 30.09.2013, pending before Judicial Magistrate, Nazibabad, District Bijnor.

3. Learned counsel for the applicants submits that the applicants herein a bona fide purchaser of the property in question, wherein, Opposite Party No.2 has claimed his share. It has been alleged in the complaint that the Opposite Party No. 2 was in occupation of a portion of the said property, from which, he was dispossessed by the applicants and when the Opposite Party No.2 questioned the applicants herein, they have abused, assaulted the Opposite Party No.2, thrown away his articles and the applicants have threatened to kill the Opposite Party No.2 and thrown him out. On such complaint being made, the statements of witnesses under Sections 200 and 202 Cr.P.C. were recorded and, thereafter, learned Magistrate, vide order dated 30.09.2013, has summoned the applicants herein for the offence punishable under Sections 323, 504 and 506 IPC.

4. Learned counsel for the applicants further submits that with regard to the said sale-deed executed by the mother of the Opposite Party No.2, the Opposite Party No.2 has filed a Civil Suit No. 363 of 2012 against his mother and family members of applicants herein. Since the Opposite Party No.2 did not get any interim order against the applicants in the said civil suit, the instant complaint has been filed by the Opposite Party No.2 only to harass the applicants herein, who are the bona fide purchasers.

5. Learned AGA for the State submits that it is the claim of the Opposite Party No.2 that he was a share holder and in occupation of a portion of the suit property, which was sold with the applicants herein and the applicants herein have dispossessed and thrown away the articles of the applicants kept in the said portion of the house and on questioning by him, they assaulted the Opposite Party No.2, therefore, a prima facie case has been made out against the applicants. Learned AGA for State further submits that the applicants have failed to produce any documents to show that a persons who sold the property was the exclusive owner of the said property. In view thereof, a prima facie case is made out against the applicants herein.

6. Having heard the rival submissions made by the learned counsel for the parties and have carefully gone through the records of the case, the applicants-claimant to be a bona fide purchaser of the property in question, which was sold to the applicants by the mother of the Opposite Party No.2, for which, the Opposite Party No.2 has filed a suit for cancellation of sale deed and the instant complaint was lodged on 04.06.2013 against the applicants. The applicants herein have not produced any documents to show that the mother of the Opposite Party No.2 herein, who was the exclusive owner of the suit property, sold the property in question to the applicant, and a prima facie case has been out from the complaint and the statements recorded under Sections 200 and 202 Cr.P.C. that the Opposite Party No.2 was in possession of a portion of the suit property, from which, the applicants have dispossessed, therefore, a prima facie case has been made out against the applicants and the cognizance have been taken against the applicants,therefore, the considered opinion of the this Court that there is no ground for interference in the instant case.

7. In view thereof, the instant application is devoid of merit and is hereby dismissed.

Order Date :- 6.12.2023

Akram