

Court No. - 84

Case :- CRIMINAL APPEAL No. - 2767 of 2023

Appellant :- Ganga Prasad

Respondent :- State of U.P. and Another

Counsel for Appellant :- Lalit Kumar Srivastava, Abhishek Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur), J.

Heard learned counsel for the appellant, learned A.G.A. and perused the record.

No one has put in appearance for the opposite party no. 2 at the time of argument.

This is an appeal filed against the cognizance order dated 08.02.2023 in Sessions Case No. 220 of 2023 (State Vs. Rotan Singh and others) arising out of Case Crime No. 273 of 2022, under Sections 420, 120B, 504, 506 IPC and 3(1)(Da), 3(1)(Dha) of SC/ST Act, Police Station Sikandara, District Agra.

By the impugned order the Special Judge, SC/ST Act, Agra took cognizance under Sections 420, 120B, 504, 506 IPC and 3(1)(Da), 3(1)(Dha) of SC/ST Act against the appellant - Ganga Prasad and two other accused persons.

It is argued by the learned counsel for the appellant that the incident is dated 30.01.2021 when the sale deed is said to have been executed on the basis of forged will dated 30.12.2003 and the FIR has been lodged on 05.06.2022. Further, it is argued that there is allegation that the present appellant managed to execute the sale deed of the disputed plot on the basis of 'forged will', while on 30.01.2021 as per report submitted by the Joint Secretary, Agra Development Authority, Agra, he was not working as Clerk regarding Sector C-1 Shastripuram Scheme in Agra Development Authority, rather one Rajiv Saxena was looking after this scheme.

Further, the attention of the court is drawn towards chart of appointment of various staff in the Agra Development Authority, whereby at serial no. 01 of this chart the name of the present appellant has been mentioned. It is claimed that he was looking

after the whole work of Block C-2 and B-2 at Shastripuram and Jawaharpuram Scheme, while the whole work of Phase C-1 of Shastripuram Scheme was being looked after by Rajiv Saxena. Hence, the involvement of the appellant in forged sale deed is denied. Again, it is submitted that there is no allegation of hurling abuses or extending threat of life against him, so Section 504 and 506 IPC cannot be said to be made out against the appellant.

It is also submitted that the appellant has not hurled any caste based words against the first informant, so the offence under Sections of SC/ST Act also cannot be said to be made out against him.

Learned A.G.A. opposed the prayer and submitted that as per scheme of appointment of staff, appended at page-75 of the paper book, the work of Block C-1 was being looked into by the present appellant. Hence, the prima-facie offence against him can be said to be made out.

From perusal of the FIR, it is found that the version of the first informant is that she belongs to SC/ST community. A plot situated at Shastripuram Scheme Sector C-1 Plot No. A-41 was allotted in the name of her husband on 06.03.2003. The sale deed was also executed in the name of her husband on 22.12.2016. This plot has been sold by Jalaj Singh in favour of Rautana Singh on 30.01.2021 on the basis of forged will dated 30.12.2003, while Jalaj Singh was noway related to her husband. Her husband never executed any will in his life time. Hira Lal Agrawal, Sunil Gupta, Gulshan and Ganga Prasad, retired Clerk of A.D.A. by hatching criminal conspiracy, on the basis of the forged will executed the sale deed of the plot of first informant, while the first informant is the only legal heir of the plot. It is further submitted that on 08.12.2021 at 10.00 A.M. when all these persons came to encroach upon the plot and started laying foundation, they were resisted by the opposite party no. 2. All the accused persons hurled caste based and wild abuses, extended threat of life and warned of making encroachment upon her plot.

Though, it is argued by the learned counsel for the appellant that at the time of execution of sale deed on 30.01.2021 the appellant was not working as a Junior Clerk looking after C-1 Shastripuram Scheme, rather Rajeev Saxena was looking after that scheme. In support of his contention he has placed before the court the list of appointment of staff looking after the various schemes. It is pointed out that at Sl.No. 3 it has been mentioned that Rajeev Saxena was looking after the whole work of Shastripuram Scheme

Phase C-1, while it is submitted by the learned A.G.A. that, as per Col. No. 1, the present appellant was looking after the work of Shastripuram Scheme Block D & C-1 regarding complete residences of Sulabh Awas.

If the allegations are seen in the FIR, it is nowhere mentioned in the FIR that the will or the sale deed were executed by the appellant in connivance with the other co-accused persons in the capacity of Clerk working as Agra Development Authority. The word 'retired Clerk' is added to the name of present appellant in the FIR just to figure out his introduction that he was a retired Clerk. There is nothing to do with the profession of the appellant in adding the offence. The allegation against the appellant is of preparing forged will by hatching a criminal conspiracy with the other co-accused persons and thereby executing a sale deed of the plot which belonged to the first informant.

In the opinion of the court, whether on the date of sale deed i.e. 30.01.2021 or on the date of forged will i.e. 30.12.2003 the appellant was working or not or he was working in any particular department is nothing to do with the allegation of the FIR.

Thus, on the basis of FIR there is allegation against the appellant of preparing forged will and thereby executing a sale deed in connivance with the co-accused persons regarding plot of the first informant. The trial court on the basis of charge sheet, which has been filed by the Investigating Officer after recording the requisite evidence, has taken cognizance against the appellant under the sections mentioned therein. No case is made out to interfere with the impugned order.

The appeal is, thus, **dismissed**.

Order Date :- 17.10.2023

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