

Court No. - 92

Case :- APPLICATION U/S 482 No. - 25793 of 2014

Applicant :- Aniruddha And Anr

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

Counsel for Applicant :- Dileep Kumar Srivastava, ,B.K. Srivastava

Counsel for Opposite Party :- Govt. Advocate,Damodar Pandey,Rajesh Yadav,Sanjai Kumar Singh

Hon'ble Anish Kumar Gupta,J.

1. Rejoinder affidavit filed on behalf of the applicants is taken on record.
2. Heard Sri Dileep Kumar Srivastava, learned counsel for the applicants, Sri Damodar Pandey, learned counsel for the Opposite Party No. 2 and Sri Pankaj Kumar Srivastava, learned AGA for State.
3. The instant application has been filed seeking quashing the entire proceeding of Case No. 3941 of 2012 (State vs. Aniruddh) arising out of Case Crime No. 68 of 2012, under Sections 419, 420, 467, 468, 504, 506 I.P.C., Police Station Kasiya, District Kushinagr.
4. Learned counsel for the applicant submits that from the entire allegations made in the F.I.R., there is no allegation of any overt act committed by the applicants herein, in the entire transactions as has been alleged in the F.I.R. In the F.I.R., it has been alleged that on 16.02.2011, the applicant nos. 1 and 2 along with one Virendra Chaubey came to the school of the opposite party no. 2 and expressed their desire to sell the adjoining land owned by the applicants to the school. In pursuance thereof, the opposite party

no. 2 got prepared the sale deed and on 17.02.2011 paid the amount to the person who executed the sale deed. It is further stated in the F.I.R. itself that on the said date instead of applicant no. 1 and one Pappu Verma @ Hari Prakash Verma, son of Jai Raj Verma appeared and pasted his photo in place of applicant no. 1 and obtained the sale consideration of Rs.2,76,000/- and executed a forged sale deed in favour of the opposite party no. 2. Subsequently, when the opposite party no. 2 realized that something wrong has been committed then he went to the house of said Pappu Verma on 24.12.2011, who told him that this forged sale deed has been executed by Pappu Verma on instructions of applicant no. 2 and one Virendra Chaubey. Therefore, in the entire transaction as has been narrated in the F.I.R., there is no overt act on the part of the applicants herein and the instant F.I.R. has been lodged by the opposite party no. 2 only because the applicants are the owner of the land concerned for which fraudulently the opposite party no. 2 has got the sale deed executed through the said Pappu Verma.

5. During the mutation proceeding thereof, the applicants herein objected the said mutation proceeding though the said objection was rejected at the initial stage and on such objections the concerned Sub Divisional Magistrate has directed the action to be taken against the person, who has executed the sale deed by pasting the forged photograph by impersonating as the appellant no. 1. Subsequently, the applicants herein have also filed a civil suit for cancellation of the said sale deed executed by the Pappu Verma in favour of the Management Committee of the school concerned, in whose favour sale deed was executed along with a prayer for permanent injunction. In the said suit no interim order was passed and the application for interim relief was rejected.

Against which, a Misc. Civil Appeal No. 11 of 2022 was filed by the applicant no. 1 herein, wherein the appellate court has directed to maintain status quo vide order dated 28.09.2022.

6. Therefore, on the aforesaid facts and circumstances of the case, learned counsel for the applicants submits that no case whatsoever is made out against the applicants from the entire allegations made in the F.I.R. itself. Therefore, he prayed for quashing of the entire proceedings of the instant case against the applicants herein.

7. Learned counsel for the opposite party no. 2 submits that the applicant nos. 1 and 2 in collusion with the said Pappu Verma had received the money though said Pappu Verma had executed the said forged sale deed by impersonating applicant no. 1. Therefore, there was a larger conspiracy between the applicants as well as said Pappu Verma and Virendra Chaubey. Therefore, learned counsel for the opposite party no. 2 submits that no interference is called for while exercising the jurisdiction under Section 482 Cr.P.C. as the further evidence is yet to come during the trial.

8. Leaned counsel for the State submits that from the F.I.R., the entire allegation is against Pappu Verma and not against the applicants herein. However, in the mechanical manner, the charge sheet has been filed by the concerned Investigating Officer in the matter.

9. Having heard the submissions made by learned counsel for the parties, this Court has carefully gone through the record of the case. From the plain reading of the F.I.R., it is apparent that no allegations whatsoever has been made in the entire F.I.R. alleging any overt act committed by the applicants herein. Neither there is any allegation that the payment was made to the applicants nor the

sale deed was executed by the applicants. From the allegations as made in the F.I.R., it appears that the said Pappu Verma had approached the opposite party no. 2 impersonating himself as applicant no. 1 and desired to sell his land adjoining the concerned school, on which the opposite party no. 2 has relied upon and got prepared the documents and on the presence of the said Pappu Verma, the sale deed was executed by said Pappu Verma impersonating as applicant no. 1 and the amount which was paid by the opposite party no. 2 was paid to the said Pappu Verma not to the applicants herein. Therefore, from the plain reading of the entire F.I.R., no offence whatsoever is made out against the applicants herein. After coming to the knowledge of the execution of the sale deed, the applicants have already taken all the preventive measure by filing the objection to the mutation proceedings as well as filing the suit for cancellation of sale deed and permanent injunction against the management of the concerned school in whose favour the said sale deed was allegedly executed by the said Pappu Verma, in respect of the property, owned by the appellant no. 1.

10. On the query made by this Court, learned counsel for the opposite party no. 2 has failed to show any document to support the contention that any payment was made to the applicants herein.

11. In view thereof the instant application deserves to be allowed and is hereby **allowed**. The entire proceeding of Case No. 3941 of 2012 (State vs. Aniruddh) arising out of Case Crime No. 68 of 2012, under Sections 419, 420, 467, 468, 504, 506 I.P.C., Police Station Kasiya, District Kushinagr are hereby quashed against the applicants herein.

Order Date :- 12.12.2023 / Manoj