

Court No. - 92

Case :- APPLICATION U/S 482 No. - 40454 of 2023

Applicant :- Jalaluddin And 2 Others

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

Counsel for Applicant :- Mohammad Zafar Yab Khan, Shahroze Khan

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta, J.

1. Heard Shri Shahroze Khan, learned counsel for the applicants and Shri Sandeep Choudhary, learned A.G.A. for the State.

2. The instant application under section 482 Cr.P.C. has been filed seeking quashing of the charge sheet dated 13.6.2023, cognizance/summoning order dated 12.9.2023 passed by the learned Judicial Magistrate Siddharth Nagar as well as the entire proceedings of Criminal Case No. 30259 of 2023 (State Vs. Jalaluddin and others) arising out of Case Crime No. 101 of 2023 under sections 352, 427, 504 and 506 I.P.C. police station Mohana District Siddharth Nagar pending in the court of Juicial Magistrate, Siddharth Nagar.

3. Learned counsel for the applicants submits that applicant no. 1 is the bonafide purchaser of an agricultural land from one Indrawati to whom the opposite party no. 2 has sold a portion out of the land owned by him in the year 2003 itself. Therefore, the applicants cut the crop from their own land which was objected by the opposite party no. 2 and his family members and subsequently the instant F.I.R. has been lodged by the opposite party no. 2 against the applicants herein. Learned counsel for the applicant further submits that with regard to the sale deed executed by the opposite party no. 2 in favour of one Indrawati from whom the applicants have purchased the land in question, the opposite party no. 2 has filed a suit for cancellation of the said sale deed allegedly got executed by Indrawati deceitfully in her favour. Therefore, learned counsel for the applicants submits that there is a dispute of civil nature between the parties for which civil suit is pending with regard to the property in question and the opposite party no. 2 has also challenged the mutation of the said land in his favour which was also rejected by the revenue court. Therefore, learned counsel for the applicants has prayed for quashing of the entire proceedings of the aforesaid case.

4. Per contra, learned A.G.A. submits that the allegations against the applicants is that in addition to the portion for which the

applicants has got the sale deed from Indrawati, they have cut the crop of the portion exclusively owned by the opposite party no. 2 and when objected by the opposite party no. 2 they have assaulted them. He further submits that on the complaint received, the inspection and measurement by the revenue team was done on the spot and it was found that the applicant Jalaluddin has cut the crop of the land of the opposite party no. 2 in excess of the land for which a sale deed has been executed in his favour. Learned A.G.A. further submits that the incident which has taken place is beyond the scope of the pending civil suit and categorical an offence is made out against the applicants herein. Therefore, he submits that prima facie case is made out against the applicants and after proper investigation a charge sheet has been filed against the applicants and on the basis of material available before the learned Magistrate, cognizance has been taken by the court on 12.9.2023, therefore, there is no illegality in the summoning order or the charge sheet which are based on the clear and categorical allegations and clinching evidence against the applicant for the offences alleged against them.

5. Having heard the rival submissions of the learned counsel for the parties this court has carefully gone through the record of the case. Apparently the allegation is that the applicants in addition to the land owned by them have cut the crop of the land owned by the opposite party no. 2 in excess of their own land for which they have obtained a sale deed from one Indrawati and the aforesaid allegations have been well founded by the inspection done by the revenue team and the statement of the Lekhpal recorded during investigation. Therefore prima facie a case is made out against the applicants that they have cut the crop of the land in excess of the land for which the sale deed was executed in their favour. Therefore, in the considered opinion of the court there is no illegality in the charge sheet as sufficient material was available during investigation and on the basis of which charge sheet has been filed and having found the sufficient material against the applicant, the learned Magistrate has rightly taken cognizance against the applicants. Therefore, no interference is required in exercise of power under Section 482 Cr.P.C. and the instant application is devoid of merits and is accordingly **dismissed** in the light of judgements of Apex Court in **R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866; State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 and Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others : 2021 SCC Online SC 315.**