

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.2998 of 2011 (O&M)
Date of Decision: January 06, 2015

Laxmi Devi

...Petitioner

VERSUS

K.K.Yadav

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Atul Lakhanpal, Senior Advocate with
Mr.Jasmeet Singh, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 401 Cr.P.C. against K.K.Yadav respondent challenging the judgment dated 05.08.2011 passed by learned Addl. Sessions Judge, Rewari.

It is stated in the petition that judgment passed by learned Addl. Sessions Judge, Rewari accepting the revision filed by the respondent and setting aside the well reasoned summoning order passed by the learned trial Court is against the facts and well settled law and hence is liable to be set aside.

It is further stated in the petition that petitioner had purchased a plot measuring 8 kanals 10 marlas, vide sale deed dated 12.01.2001 along with construction i.e. one double storey rest room etc. The petitioner planned to construct a club-cum-fun park in that plot and for that purpose, applied for CLU on 02.02.2001 from the

District Town Planner, Rewari and a sum of ₹43,000/- was deposited with District Town Planner as inspection fee. After the inspection, the District Town Planner K.K.Yadav, recommended the case of the petitioner to the Director, Town and Country Planning, Haryana for grant of CLU vide letter dated 02.03.2001. After recommending the case of the petitioner for issuance of CLU to the Director, Town and Country Planning, Haryana, K.K.Yadav approached the petitioner and asked the petitioner that if she really wants CLU permission, then she must transfer half of the plot to him. As per facts of the case, thereafter, K.K.Yadav manipulated his own recommendations and application of the petitioner was rejected. Thereafter, petitioner filed appeal before higher authorities and the same was also dismissed. Then on 07.06.2002 at about 10.00 A.M., Mahavir Kaushik, Executive Officer with additional powers of Director Town Planning, K.K.Yadav, District Town Planner and Ram Niwas, J.E. along with 50 policemen, demolished the property including the portion of house of the petitioner-complainant.

Learned Judicial Magistrate Ist Class, Rewari vide summoning order dated 06.11.2006 summoned accused to face trial under Sections 427, 447, 342 and 34 IPC and K.K.Yadav was further summoned under Section 463, 465 and 471 IPC and Section 7 and 12 of the Prevention of Corruption Act, 1988. K.K.Yadav filed a revision petition against above-said summoning order and the same was accepted by learned Addl. Sessions Judge, Rewari vide impugned judgment dated 05.08.2011.

Aggrieved from the judgment dated 05.08.2011, this present first revision petition has been filed by the complainant-petitioner Laxmi Devi.

From the perusal of the record I find that nothing has been shown as to whether any sanction has been obtained in this case under Section 197 Cr.P.C. or Section 19 of the Prevention of Corruption Act. No sanction has been taken from the competent authority before filing the complaint. Secondly, in no way, it can be held as sufficient ground to summon respondent K.K.Yadav only on the basis of oral statement that K.K.Yadav asked for half of the plot from the petitioner for getting permission of CLU, especially when the appeal/revision filed by the present petitioner has been rejected by the higher authorities. As per the judgment passed by learned Addl. Sessions Judge, Rewari, the property was demolished as it was constructed against the law without getting CLU and further District Town Planner had directed the complainant to restore the site to its original state or to bring it in conformity with the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 but the respondent failed to carry out the same and after serving notice and seeking police help, demolition was carried out on 07.06.2002 in discharge of his official duties. No offence is made out for summoning the present respondent in the complaint case. It is also in the impugned judgment that the complainant purchased certain land in the area vide sale deeds dated 01.05.2001 and 12.01.2001 and the said area has been

declared controlled area under the provisions of the Haryana Development and Regulation of Urban Areas Act 1975 on 06.10.1974. It is further in the impugned judgment that notice was also given to comply with the said order within 24 hours, which was issued on 06.06.2002. It is also in the judgment that complaint qua co-accused Mahavir Kaushik has already been quashed by this Court.

In view of the above discussion, I find that no illegality has been committed by learned Addl. Sessions Judge, Rewari while accepting the revision petition filed by K.K.Yadav vide impugned judgment dated 05.08.2011 and the judgment is as per law and same is upheld.

Therefore, finding no merit in the present petition, the same is dismissed.

January 06, 2015
Vgulati

(INDERJIT SINGH)
JUDGE