

23
17.08.2023
Ct-237
(RD)

In the High Court at Calcutta
(Criminal Revisional Jurisdiction)
Appellate side

CRR 1316 of 2016
With
CRAN 4 of 2017(Old No. CRAN 3871 of 2017)
CRAN 7 of 2019 (Old No. CRAN 885 of 2019)

Akhtar Ali Khan.
Vs.
The State of West Bengal & Anr.

Mr. Imtiaz Ahmed, Adv.
Mrs. Ghazala Firdaus, Adv.
Mr. Sk. Saidullah, Adv.
Mr. Mithun Mondal, Adv.
Mr. Md. Ansalam, Adv.

.... For the Petitioner

Mr. Jaharlal Roy, Adv.
Ms. Kavita Rani, Adv

... For the de facto complainant.

Mr. Prasun Kumar Dutta, Ld. APP
Mr. Md. Kutubddin, Adv.
Mr. Santanu Deb Roy, Adv.

.....For the State

1. This revisional application challenged the proceeding in connection with Nanda Kumar Police Station Case No. 150 of 2013 dated 01.06.2013 under Section 419/ 420/ 467/ 471 of the Indian Penal Code corresponding to GR Case No 817 of 2013 pending before Ld. Chief Judicial Magistrate, Tamluk, Purba Medinipur.

Brief Facts:-

2. In the year 2009, Arbinda Bera and Sk. Abdul Halim approached the petitioner to sell various

lands including the land in question within Kumarpur Village. They also produced all the documents of ownership to convince the petitioner who then purchased various land in Kumarpur Village from the recorded owners. Petitioner had no knowledge about the identity of the vendors of the conveyance deed and acted on representation of said Arabinda Bera and Sk. Abdul Halim. The vendors of the deed in question put their signature on the deed of conveyance on the basis of their respective photo identity cards in the registration office. Thereby, petitioner purchased the land in question.

3. In the month June, 2013 a written complaint was lodged by the opposite party no. 2 against the petitioner alleging, *inter alia*, that he was the owner of 1/3rd decimal of land in the plot in question and he has purchased the land from one Parul Dhara who died long before 2009 i.e. before execution of the deed of conveyance in respect of the entire plot in question in favour of the petitioner.
4. On receipt of that complaint addressed to officer in-charge Nanda Kumar Police Station, Purba Medinipur a case was registered as 150 of 13 dated 01.06.2013 under Section 419/ 420/467/ 471 of the Indian Penal Code.

Petitioners Argument:-

5. Ld. Advocate, Mr. Imtiaz Ahmed, appearing on

behalf of the petitioner has drawn my attention to some documents including the deed in question and showing payment of consideration amount of Rs. 3,56,944/-. Mr. Ahmed also submitted by referring to the name of identifier who identify all the vendors in the registration office. Mr. Ahmed also tried to establish that the deed in question was presented before the registration office by one Biman Dhara not by the petitioner himself. Before parting with Mr. Ahmed has submitted that there was no specific allegation against the petitioner in the written complaint addressed to officer in-charge Nanda Kumar Police Station. In support of his contention, Mr. Ahmed relied on a case of

Md. Ibrahim & Ors. Vs. State of Bihar & Anr.
reported in ***(2009) 8 SCC 751***

Sheila Sebastian V.R. Jawaharaj & Anr.
reported in ***(2018) 7 SCC 581***

Opposite parties' Argument:-

6. Ld. Advocate Mr. Jaharlal Roy, appearing on behalf of the Opposite party no. 2/de facto complainant has contended that there is specific allegation of the written complaint against the petitioner for purchasing share of the land belonged to a dead person namely Parul Dhara and that too the share of Parul Dhara was purchased by the opposite party no. 2/de facto complainant. It is contended that opposite party no. 2 was present at the time of registration of

deed of conveyance whereby, share of a dead person was purchased by false personification. In support of his contention, Mr. Roy has referred to the deed of conveyance where photograph of Parul Dhara (dead person) was fixed with LTI. According to Mr. Roy petitioner being purchaser of a deed executed by false personification cannot be absolved of guilt, at least at this stage.

7. Ld. Advocate, Mr. Prasun Kumar Dutta, on behalf of the State, submitted that there is sufficient material in Case Diary to refuse the prayer for quashing the proceeding.

Decision:-

8. In our case, a deed of conveyance was executed in favour of the petitioner by false personification at the instance of vendors of the deed. One of the vendors died before execution of the deed. In spite of that photograph of dead person is found affixed in the deed of conveyance along with LTI. All the vendors were identified by one Arbinda Bera and the deed was presented for registration by one Biman Dhara.
9. Petitioner along with all vendors were present at the time of registration and petitioner is supposed to know his vendors at least at the time of identification before the Registrar. The allegation of this case is based on the false personification and the deed in question was executed by a dead person though that person was identified before

the registrar in presence of all vendors and the petitioner being purchaser.

10. It is axiomatic that exercise of inherent power under Section 482 Code of Criminal Procedure would be predicated on the facts of each case but at the time of consideration the court cannot embark on an inquiry as to the reliability or genuineness of the allegation made in the FIR. When the allegations made in the FIR, if taken at face value along with other materials, do not disclose an offence, that the court would be justified in quashing the FIR. That apart, if the allegations in the FIR of Complaint were inherently improbable, then the FIR and Charge sheet could be quashed. None of these situations prevailed in our case.

11. The facts dealt with by the Hon'ble Supreme Court in **Md. Ibrahim** (supra) and **Sheila Sebastian** (supra) is not identical to that of ours.

12. Therefore, allegations made in the written complaint surely disclosed the commission of offence by all the persons executing the deed as well as the petitioner in cohort with each other and none of these allegations appeared to be absurd or inherently improbable.

13. In the aforesaid view of the matter, I am unable to exercise the discretion vested in this Court to quash the proceeding in order to prevent abuse of process of Court as there is no ground to

exercise those powers in the present case. However, it would be open for the petitioner to make his submission on the material placed before the learned Trial Court to seek discharge, if at all no offence was made out against him.

14. Thus, the revision application being no. CRR 1316 of 2016 stands dismissed.

15. All pending applications being no. CRAN 4 of 2017 & CRAN 7 of 2019 stand disposed of.

16. All parties to this application shall act on the server copy of this order downloaded from the official website of this Court.

17. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Bibhas Ranjan De)