2026:AHC:211310

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 734 of 2018

Rajveer

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Deepak Kumar Kulshrestha
Counsel for Opposite Party(s)	:	G.A.

Court No. - 78

HON'BLE SANDEEP JAIN, J.

The instant application under Section 482 Cr.P.C. has been filed seeking the following relief:

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow the instant application and quash the proceedings of Complaint Case No. 290 of 2014 (Banwaree Lal Sharma vs. Ram Singh and another), under Sections 406 and 506 IPC, as well as the summoning order dated 23.07.2016, insofar as it relates to the applicant, pending before the Court of Additional Chief Judicial Magistrate, Court No. 13, Agra."

Factual matrix of the case is that the complainant/respondent no. 2, Banwaree Lal Sharma, along with Rakesh Kumar (purchaser), entered into an agreement to sell with Ram Singh (seller) in respect of his half share in agricultural land situated in Gata No. 420, having a total area of 1.2020 hectares, for a total consideration of Rs.27,64,550/-. An amount of Rs.2,00,000/- was allegedly paid in cash as earnest money on 22.04.2013.

According to the complainant, the accused-applicant Rajveer Singh, who is the nephew of Ram Singh, with an intention to misappropriate the aforesaid amount of Rs.2,00,000/-, deliberately delayed the execution of the sale deed and, when pressurized to execute the same, refused to execute the sale deed or return the earnest money. It is further alleged that, after receiving a legal notice dated 02.11.2013, the accused-applicant, along with three other persons, came to the house of the complainant and threatened him with dire consequences if he persisted with the litigation.

The complainant moved an application before the police for registration of an FIR, but no FIR was registered. Consequently, he filed a complaint before the learned Additional Chief Judicial Magistrate, Court No. 3, Agra. His statement under Section 200 Cr.P.C. was recorded, whereas the statements of Ramveer Singh and Ashok Kumar were recorded under Section 202 Cr.P.C. Thereafter, by order dated 23.07.2016, passed by the Additional Chief Judicial Magistrate, Court No. 13, Agra, Ram Singh and the accused-applicant Rajveer Singh were summoned to face trial for the offences punishable under Sections 406 and 506 IPC. The said summoning order has been challenged by the accused-applicant by filing the instant application under Section 482 Cr.P.C.

Learned counsel for the accused-applicant Rajveer Singh submits that the agreement to sell was executed between Ram Singh, on the one hand, and Rakesh Kumar and Banwaree Lal Sharma, on the other hand, and the accused-applicant was neither a party to the said agreement nor a witness thereto. He submits that the accused-applicant is neither the seller nor the purchaser of the disputed land and there is no evidence whatsoever to establish that he had received the earnest money of Rs.2,00,000/- allegedly paid by the complainant. It is, therefore, submitted that no offence under Sections 406 or 506 IPC is made out against the accused-applicant and that the learned Magistrate has illegally summoned him to face trial.

Service upon the complainant/respondent no. 2 is sufficient, but none has appeared on his behalf.

I have heard learned counsel for the accused-applicant and perused the record.

From the perusal of the record, it is evident that the alleged agreement to sell was executed by Ram Singh in favour of Rakesh Kumar and Banwaree Lal Sharma, whereby Ram Singh agreed to sell his half share, measuring 0.601 hectare, out of the total area of 1.2020 hectares of agricultural land situated in Gata No. 430, for a consideration of Rs.27,64,550/-. An amount of Rs.2,00,000/- was received by Ram Singh as earnest money from the purchasers. It was agreed that the sale deed would be executed within six months upon payment of the balance sale consideration. The agreement to sell was executed on 22.04.2013.

The complainant, Banwaree Lal Sharma, in his statement recorded under Section 200 Cr.P.C., stated that he had entered into an agreement to sell with Ram Singh in April, 2013, under which he and Rakesh Kumar agreed to purchase half share of the land for a consideration of Rs.27,64,550/-, out of which Rs.2,00,000/- was paid in advance. He further stated that the agreement was executed at Tehsil Kirawali and that the sale deed was to be executed after six months. According to him, subsequently Ram Singh did not execute the sale deed as his son was opposed to the transaction and he had also not returned the earnest money of Rs.2,00,000/-. He further stated that Ashok Kumar, Ramveer Singh and Diwan Singh were witnesses to the agreement and that he was threatened by the son of Ram Singh when he demanded return of his money.

The statements of Ashok Kumar and Ramveer Singh were recorded under Section 202 Cr.P.C. Both witnesses stated that an agreement to sell was executed on 22.04.2013 at Tehsil Kirawali between Rakesh Kumar and Banwaree Lal Sharma, on the one hand, and Ram Singh, on the other hand, for a consideration of approximately Rs.28 lakhs, out of which Rs.2,00,000/- was paid in advance in their presence. Both of them are witnesses to the said agreement. They further stated that subsequently Ram Singh did not execute the sale deed in favour of Rakesh Kumar and Banwaree Lal Sharma and did not return the earnest money received by him.

Thus, from the statements of the complainant and his witnesses, it is apparent that the agreement to sell dated 22.04.2013 was executed by Ram Singh in favour of Rakesh Kumar and Banwaree Lal Sharma. Under the said agreement, Ram Singh had agreed to sell his half share, measuring 0.601 hectare, in the agricultural land situated in Gata No. 430, for a consideration of Rs.27,64,550/-, and had received Rs.2,00,000/- as earnest money. Ashok Kumar and Ramveer Singh are witnesses to the said agreement.

It is further apparent from the statements of the complainant and his witnesses that no specific role has been assigned to the accused-applicant Rajveer Singh in the aforesaid transaction. He is neither a party to the agreement to sell nor a witness thereto. There is also no allegation supported by any material on record that the accused-applicant had received the earnest money of Rs.2,00,000/- allegedly paid by the complainant and Rakesh

Kumar to Ram Singh.

For implicating the accused-applicant in the transaction in question, there must be some material to prima facie establish his involvement in the receipt or misappropriation of the amount paid by the purchasers to the seller. However, no such material is available on record. Rather, from the evidence on record, it appears that the son of Ram Singh was opposed to the aforesaid transaction and, consequently, Ram Singh did not execute the sale deed in favour of Rakesh Kumar and Banwaree Lal Sharma, which led to the filing of the instant complaint.

In the absence of any prima facie incriminating material against the accused-applicant, the learned Magistrate could not have summoned him to face trial for the offences punishable under Sections 406 and 506 IPC.

Accordingly, the impugned summoning order, insofar as it relates to the accused-applicant Rajveer Singh, is unsustainable in law and is liable to be set aside.

In view of the foregoing discussion, the instant application under Section 482 Cr.P.C. is ***allowed***. The impugned summoning order dated 23.07.2016, insofar as it summons the accused-applicant Rajveer Singh for the offences punishable under Sections 406 and 506 IPC, is hereby set aside. It is, however, made clear that the summoning order, insofar as it relates to the co-accused Ram Singh, has not been interfered with.

The interim order, if any, stands vacated.

The trial court is directed to expedite the trial and conclude the same within a period of six months from the date of receipt of a certified copy of this order, without granting any unnecessary adjournment to either of the parties, on merits and in accordance with law.

(Sandeep Jain,J.)

October 8, 2026
Mayank

Digitally signed by :-
MAYANK KUMAR SHARMA
High Court of Judicature at Allahabad