



2023 INSC 506

Criminal Appeal No. 1296 of 2023

[NON-REPORTABLE]

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No. 1296 of 2023

Mukeem Ahmad & Anr.

...Appellants

Versus

State of U.P. & Anr.

...Respondents

J U D G M E N T

Rajesh Bindal, J.

1. The order dated 11.4.2019 passed by the High Court of Judicature at Allahabad in a petition filed under Section 482 CrPC has been challenged by the Appellants. The prayer before the High Court was for quashing the Case Crime No. 341 of 2018 dated 28.06.2018 registered under Sections 420, 467, 468 and 471 of

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Indian Penal Code and all subsequent proceedings thereto.

2. Learned counsel for the Appellants submitted that the case came to be registered on a complaint filed by Aash Mohamad, son of late Gulam Mohamad. It was registered as a result of an application filed before the Magistrate under Section 156(3) CrPC. The allegation was that Nusarat Jahan, widow of Gulam Mohamad had sold the property to the Appellants which she was not entitled to sell as after the death of her husband Gulam Mohamad, she had remarried.

3. Learned counsel for the Appellants argued that he purchased a piece of land from Nusarat Jahan widow of Gulam Mohamad after payment of due consideration. The sale deed was registered on 17.3.2017 for a total consideration of ₹14 lakhs. The Appellants were not in the knowledge of any fact regarding the dispute of the vendor in the family or that she had remarried after the death of her husband thereby putting a scar on her right in the property. In fact, the Appellants were surprised to know about all these facts when they received notice in a Civil Suit No. 14/2017 filed by the complainant on 27.3.2017. After filing the civil suit, they filed application under Section 156(3) CrPC before the Magistrate on 29.5.2018 for registration of FIR on the basis of which, the same was registered. It is the admitted case of the complainant

that after the death of Gulam Mohamad, mutation of the land in question was registered in the name of Nusarat Jahan on the basis of which the land in question was sold by her to the appellants. In the FIR, there are no allegations of cheating against the Appellants. The allegations of cheating are only against Nusarat Jahan. In fact, on a plain reading of the FIR, no case is made out against the appellants, hence permitting the trial to continue would result in abuse of process of Court especially when a civil suit filed by the complainant more than a year before filing of application under Section 156(3) CrPC, was already pending.

4. On the other hand, learned counsel for the respondents submitted that whatever arguments have been raised by the counsel for the appellants needs appreciation of facts. These are factual aspects which are required to be gone into by the court after recording of evidence. Chargesheet has already been submitted. Filing of civil suit as such has not been denied. He further submitted that there is no error in the order passed by the High Court. All the arguments raised have been considered threadbare.

5. Heard learned counsel for the parties and perused the paper book.

6. The facts of the case are very well narrated in the impugned FIR which has been registered on the basis of an application filed by the complainant under Section 156(3) CrPC. It is stated therein that father of the complainant and husband of Nusarat Jahan, late Gulam Mohamad was owner in possession of agricultural land bearing khata no. 462, khasra no. 141 measuring 2.9680 hectare and khasra no. 142 measuring 0.2940 hectare, total area measuring 3.2620 hectares, situated in Village Asara, Pargana and Tehnsil Baraut, District Bagpat. The said land was ancestral property of late Gulam Mohamad. The complainant was born to the first wife of late Gulam Mohamad, namely, Jaibunisha. After her death, Gulam Mohamad married Nusarat Jahan, sister of late Jaibunisha. Late Gulam Mohamad died about seven years before filing of the application under Section 156(3) CrPC. After the death of Gulam Mohamad, the property devolved upon his legal heirs, namely, Aash, Avesh, Sameer and Nusarat Jahan. Mutation was also entered in the revenue records accordingly. Nusarat Jahan remarried to Sajid. Out of the land inherited by her, she sold 0.3372 hectare of land to Salauddin, s/o Shyamu by registered sale deed and also got mutation effected. It is alleged in the complaint that on remarriage of Nusarat Jahan after the death of Gulam Mohamad, her

relationship with the family had severed and she could not inherit any ancestral property left by late Gulam Mohamad. It is further alleged that Nusarat Jahan, taking benefit of mutation of inheritance in her favour, sold 0.3305 hectares of land vide sale deed dated 24.10.2016 in favour of the Appellants for a total sale consideration of ₹14 lakhs. This is the entire narration of facts mentioned by the complainant in the application under Section 156(3) CrPC as a consequence of which, FIR was registered.

7. A plain reading of the aforesaid FIR shows that there is no allegation whatsoever against the appellants that they are part of any conspiracy or acted in connivance with Nusarat Jahan for purchase of land which was duly recorded in her ownership at the time of registration of sale deed in their favour. It is the admitted case of the complainant that Gulam Mohamad died about seven years before the registration of FIR. Mutation of inheritance was entered in the revenue records immediately after his death. This must be in the knowledge of other legal heirs of late Gulam Mohamad. Despite their knowledge of the fact that Nusarat Jahan had remarried, they did not take any steps to get the mutation changed in case she was not entitled to inherit any property. At the time of hearing, nothing was pointed out to show that on the date of

registration of sale deed, property in question which was purchased by the Appellants was not recorded in the name of Nusarat Jahan. It is also an admitted fact on record that more than a year prior to the registration of FIR, the complainant had already filed a civil suit challenging the sale deed. The aforesaid fact was concealed in the complaint made to the police.

8. In the aforesaid factual matrix, and on plain reading of the FIR, in our opinion no case is made out against the Appellants.

9. The appeal is accordingly allowed. The impugned order dated 11.4.2019 passed by the High Court is set aside. Case Crime No. 341 of 2018 dated 28.06.2018 registered under Sections 420, 467, 468 and 471 of Indian Penal Code registered against the Appellants and all subsequent proceedings thereto qua the Appellants only are quashed.

_____, J.
(Abhay S. Oka)

_____, J.
(Rajesh Bindal)

New Delhi
May 09, 2023.

// NR, PM //