

## Pradhan Singh Vs State of U.P.

**Court:** Allahabad High Court

**Date of Decision:** April 27, 2012

**Acts Referred:** Penal Code, 1860 (IPC) â€” Section 409, 419, 420, 467, 468

**Citation:** (2012) 2 ACR 2355

**Hon'ble Judges:** Ashok Srivastava, J

**Bench:** Single Bench

**Advocate:** U.K. Saxena, Vikas Srivastava, H.N. Shukla and R.R. Shukla, for the Appellant; P.K. Shukla and A.G.A., for the Respondent

**Final Decision:** Dismissed

### Judgement

Ashok Srivastava, J.

All the above mentioned three bail applications relate to the same crime number of the same police station therefore,

they have been heard together and disposed of by this common order. The applicants Pradhan Singh and O.P. Chowdhary are involved in Case

Crime No. 263 of 2009 u/s 419/420/467/468/471/409, I.P.C.. P.S. Vijay Nagar, district Ghaziabad and further the applicant Sartaj Singh Atwal

is also detained u/s 506. I.P.C. but in the same case crime number.

2. I have heard learned counsel for the parties and perused the record.

3. It is admitted case of the appellants that some 400 persons formed a housing society namely Himachal Sahkari Awas Samiti Ltd. (for short the

society) which was registered under the Societies Registration Act. The society purchased a piece of land measuring 4.895 hectares for its

members with a view to develop a colony, carve out plots for the members and after developing the same the plots were to be handed over to

them to construct their respective houses. The applicant Pradhan Singh was the President of the Society, Sartaj Singh Atwal was the Secretary and

O.P. Chowdhary was the Treasurer. As per allegations all the three applicants hatched a conspiracy and held a meeting of the General Body and

without ensuring the requisite quorum passed a resolution to sell a large chunk of land belonging to the Society on the pretext that the land

purchased by the Society came under the land acquisition process and necessary notifications were published by the State of U.P. It is further the

case of the applicants that the members of the Society were pressurizing the officer-bearers of the society including the applicants to sell the land

and the money obtained shall be distributed amongst them so that they may get their money back which they invested a few months before the date

of the notification.

4. It has also been mentioned that an F.I.R. was lodged by one of the applicants against the co-accused Praveen Dalai with the allegation that the

latter was threatening the applicants that if the applicants did not sell a portion of land belonging to the society to him and his men they will kill the

applicants or kidnap their children and family members.

5. It is also the case of the parties that on a particular date certain sale deeds were executed in favour of Praveen Dalai and his associates. The

facts also disclose that the land was sold by the applicant Sartaj Singh Atwal as if the chunk of land was his personal property and it was sold

against cash and post dated cheques.

6. As per allegation the entire land was sold for a sum of Rs. 3,31,70,000 and a sum of Rs. 1,39,07,000 was received in cash and the remaining

in form of post dated cheques. The area which was sold was 2.954 hectares. It has also been the prosecution case that the cash was never

deposited in the account of the society. The account of the society was in a Co-operative Bank. To defraud the society and its members the

applicant opened another account in Canara Bank but even in that account no money was deposited. It should be mentioned here that the society

was taken over by the Registrar. Cooperative Societies and an administrator was appointed to look after the functioning of it.

7. It has been submitted from the side of the applicants that the applicants Pradhan Singh and O.P. Chowdhary are in jail since 3.8.2009 and the

applicant Sartaj Singh Atwal is in custody since 6.9.2009. They have further prayed that they are innocent and have committed no offence. It has

further been submitted that a few persons who are holding high official posts in the district of Ghaziabad are inimical to them and therefore, they

concocted a false case and lodged an F.I.R. against them.

8. It has further been submitted from their side that when the land was acquired the frightened members of the society pressurized the office

bearers to sell a portion of the land to a suitable purchaser and after getting the sale proceeds the money should be distributed between the

members so that they can get their money back which they had invested to purchase their plots. It has further been submitted that a General Body

Meeting of the Society was called and it was decided that the applicants should dispose of a portion of the land and the money be distributed

amongst the members who were desirous to take their money back. It has also been submitted that a piece of land was sold to the co-accused

Praveen Dalai who had threatened the applicants that if the land is not sold to him, their men will kill the applicants or kidnap their children and

family members. It has further been submitted that the money which was received by the applicants in cash was paid to various members of the

society and they have filed their affidavits in which they have stated that they have received their money back. It has also been submitted that the

post dated cheques were never deposited in any account and therefore, it cannot be said that the amount due to be paid through the post dated

cheques were misappropriated.

9. All the three bail applications have been vehemently opposed by Mr. P.K. Shukla, learned counsel for the complainant and by the learned

A.G.A. arguing on behalf of the State.

10. It has been submitted by Mr. P.K. Shukla that from bare perusal of the sale deeds it will be evident that it was not sold by the society but it

was sold by the applicant Sartaj Singh Atwal in his personal capacity and two other applicants were the witnesses to the sale deed. Sri. Shukla has

further stated that not a single penny was deposited in the account of the society and no money was kept in the cash chest of the society either. Mr.

Shukla has pointed out that no amount has been mentioned in any of the affidavits said to have been sworn by the members. He has further stated

that had it been a case of re-payment to the members a proper and formal receipt should have been issued by the society in which the paid amount

should have been mentioned. Mr. Shukla has further stated that the land was allegedly sold on behalf of the Society and in such type of sales it is

customary that cheques or bank drafts are received as consideration. This has not been done.

11. From the perusal of the record it is evident that the land was sold by the applicants without any proper authority. The society was taken over

by the Registrar and an Administrator was already appointed. From perusal of the sale deed it appears that it was sold as if the land was the

private property of the applicant Sartaj Singh Atwal and not the property of the society. It is quite unusual, in such cases, to receive payment in

cash and in the shape of post dated cheques. There is nothing on record which may indicate that the amount of Rs. 1,39,70,000 or any part

thereof was ever deposited in the bank account of the society or the amount payable to some members of the society was paid to them. There

should have been a proper receipt for the same issued by the office of the society but nothing is there. Considering all the aspects of the case and

without expressing any opinion as to the merits of the case I do not find that there is any force in all these bail applications and all the three bail

applications are rejected.