

(2008) 07 JH CK 0057

Jharkhand High Court

Case No: None

Sri Prakash Jain

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision: July 16, 2008

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 385, 406, 409, 417, 420

Citation: (2008) 4 JCR 233

Hon'ble Judges: R.R. Prasad, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

R.R. Prasad, J.

This application has been filed u/s 482 of the Code of Criminal Procedure for quashing the entire criminal proceeding of Complaint Case No. 566 of 2008 including the order dated 19.3.2008 whereby and whereunder cognizance of the offences Under Sections 420/385 of the Indian. Penal Code has been taken against the petitioner.

2. The facts giving rise this application are that the complainant, Director of a company named as M/s. Satyabhama Developers Pvt. Ltd. lodged a case stating therein that the company is engaged in developing land by constructing multi storied building. In course of time, one Sri Prakash Jain (petitioner) entered into an agreement along with other land owners whereby multi storied building over a piece of land was to be constructed and the petitioner was to be given a flat measuring 1500 sq. ft. along with parking space which on being constructed was given to him and thereafter he along with other land owners executed a deed of power of attorney in favour of Vikash Agarwal under which Vikash Agarwal was

authorized to sell other flats to intending purchaser but the petitioner after taking possession of the flat and parking area cancelled the power of attorney with the dishonest intention to deter the company from alienating the flats and putting pressure upon the complainant to give larger share over the built up area than he was entitled to and thereby committed offence Under Sections 420 and 385 of the Indian Penal Code.

3. Learned Counsel appearing for the petitioners submits that the entire allegations made in the complaint petition are false and as a matter of fact, petitioner along with other five land owners entered into an agreement on 23.6.1999 with M/s. Satyabhama Developers Pvt. Ltd. for construction of multi storied building. Subsequently a joint power of attorney was executed by the land owners in favour of Vikash Agarwal, son of opposite party No. 2 for the purpose of negotiating sale of the flats, receiving money from them and to grant receipt and to deposit the same to the principal/and owner and also to execute sale deed in favour of the purchasers but in violation of such stipulation, neither the amount was given nor due share in the built up area was given to the informant and therefore, two land holders, namely Kailash Chandra Agarwal and Sambhu Dayal Agarwal revoked the power of attorney and subsequently, the petitioner also revoked the power of attorney on 4.7.2005 and such information regarding revocation was communicated to the opposite party No. 2 and even it was published in the newspaper but in spite of that, Vikash Jain along with Surendra Kumar Agarwal, opposite party No. 2 executed a sale deed in favour of some of the purchasers transferring some of the flats though neither opposite party No. 2 nor his son Vikash had any authority to execute the registered sale deed.

4. It was also pointed out that for such act when a criminal case was lodged by petitioner Under Sections 406, 409, 417, 420 and other penal offences of the Indian Penal Code, cognizance was taken and when the prayer for anticipatory bail of Vikash Agarwal was refused, this case was lodged with ulterior motive to put pressure upon the petitioner to come to their terms and as such the entire criminal proceeding is fit to be quashed.

5. Learned Counsel appearing for the petitioner further submits that otherwise also the case, on account of the subsequent development whereby parties have settled their dispute purely a personal one arising out of business dealings not involving public policy have failed a joint compromise petition, criminal proceeding is fit to be quashed, in view of the ratio laid down by the Hon'ble Supreme Court in a case of [Union of India \(UOI\) and Another Vs. Narendra Singh](#), notwithstanding the fact that some offences are non-compoundable.

6. Learned Counsel appearing for the opposite party No. 2 also submits that parties have resolved their dispute amicably and hence, have filed a Joint compromise petition.

7. Straightaway coming to the last submission warranting this Court to exercise extraordinary power u/s 482 of the Code of Criminal Procedure for ends of justice as the dispute being personal in nature not involving public policy ended in a compromise, I may refer to a case of [Union of India \(UOI\) and Another Vs. Narendra Singh](#), wherein the Hon"ble Supreme Court taking note of the fact that the dispute being purely a personal one not involving public policy was resolved by way of compromise did hold that it is perhaps advisable that in dispute where the question involved is purely of personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceeding as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Court, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation.

8. Keeping in view the aforesaid observation, it may be reiterated that in the instant case, parties seem to have settled their dispute which was purely a personal one not Involving any public policy by way of memorandum of settlement filed with the joint compromise petition and in that view of the matter no useful purpose would be served in allowing the criminal proceeding to-continue with as there would be no possibility of any conviction being recorded.

9. Under the situation, the entire criminal proceeding of complaint case No. 566 of 2008 pending in the Court of Judicial Magistrate, 1st Class, Ranchi, including the order dated 19.3.2008 taking cognizance of the offence u/s 420/385 of the Indian Penal Code is hereby quashed.

In the result, this application is allowed.