

IN THE HIGH COURT OF JHARKHAND, RANCHI

Cr.M.P. No. 507 of 2021

Khalique Ansari @ Khalid Ahmad @ Khalik Ansari @ Khalik Ahmed @ Khlid
Ansari @ Khalique Ahmed, aged about 61 years, son of late
Sk.Nasimuddin, resident of Irba, PO-Irba, PS-Ormanjhi, District-Ranchi
..... Petitioner

-- Versus --

1.The State of Jharkhand

2.Pawan Kumar, son of Baleswar Prasad, resident of Patel Colony, Koker,
PO Lalpur, PS Sadar, District Ranchi Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :- Mr. Ashim Kumar Sahani, Advocate
For the State :- Mr. Shailendra Kumar Tiwary, APP

5/07.09.2021 Heard Mr. Ashim Kumar Sahani, the learned counsel appearing for the petitioner and Mr. Shailendra Kumar Tiwary, the learned counsel appearing for the State.

2. This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

3. The petitioner has filed this petition for quashing the order dated 06.11.2019 contained in Annexure-4 passed in Criminal Revision No.437/2019 and the order dated 28.05.2019 contained in Annexure-3 passed by learned Judicial Magistrate, 1st Class, Ranchi arising out of Complaint Case No.2929/2016. The complaint case was filed on the following premise:

"That, the allegations contained in the complaint inter alia is that the Opposite Party no.2 entered into an agreement dated 16.07.2014 in respect of sale of a piece of land measuring an area of 90 decimals being portion of plot No.473 under Khata No.182 in Mouza-Hutup and he paid a sum of Rs.5,00,000/- only by way of advance and thereafter, he paid Rs.1,00,000/- on 25.10.2014, Rs.2,00,000/- on 28.10.2014, Rs.2,00,000/- on 06.02.2015, Rs.1,00,000/- on 01.03.2015, Rs.13,00,000/- on 05.07.2015 and Rs.9,00,000/- on 21.12.2015 and Rs.10,00,000/- on 21.12.2015 and in this way, he paid a total sum of Rs.44,64,000/-. It has been alleged that the Opposite Party no.2 further paid a sum of Rs.8,00,000/- on such instruction and on the basis thereof, Memorandum of Understanding for the

approach road to Mr. Dipak Khosla on 01.05.2015. It is further alleged that in spite of his request, the petitioner avoided to execute sale deed which created a serious doubt. The Opposite Party no.2 came to know that the petitioner sold out the said land to different persons in the month of July and August, 2015 and therefore, he has misappropriated the entire money. Accordingly, he got a legal notice issued on 22.04.2016 through registered post."

4. The petitioner filed a petition for discharge which was rejected by the trial court by order dated 28.05.2019, against that order, the petitioner moved before the learned Additional Judicial Commissioner-XVII, Ranchi in Criminal Revision No.437 of 2019. The revisional court has also dismissed the revision and affirmed the order of the trial court.

5. Mr. Sahani, the learned counsel appearing for the petitioner submits that this case is arising out of an agreement and it is civil in nature and this aspect of the matter, both the courts have not considered. He further submits that the allegation contained in the complaint on oath of solemn affirmation much less than the offence punishable under sections 406 and 420 IPC. He submits that the O.P.no.2 himself is a witness to the sale-deed executed by the petitioner. In the light of his submission, he submits that both the orders are required to be interfered by this Court.

6. The Court has perused the order dated 28.05.2019 and the order dated 06.11.2019 of the revisional court. The revisional court has considered the scope of section 244 Cr.P.C. Pursuant thereto, the complainant has examined himself as well as Basant Toppo and Anish Ashraf as CW-1 and CW-2 and all the three have supported the averments of the complaint case. The revisional court after looking into the matter available on record found that the allegation against the accused persons stands prima facie attracted the charges can be framed and he may be directed to face the trial and found that there is sufficient material to frame charge against the petitioner. The two courts have already applied their mind and there is no illegality found in the criminal revision order, this is not a case of interference after the order of the revisional court.

7. No relief can be extended to the petitioner and the instant petition [Cr.M.P. No.507 of 2021] is dismissed.

(Sanjay Kumar Dwivedi, J)

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