

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK RUSIA
ON THE 11th OF OCTOBER, 2023**

MISC. CRIMINAL CASE No. 9533 of 2022

BETWEEN:-

**JAYRAJ CHOUBEY S/O LATE SHRI OMPRAKASHJI,
AGED ABOUT 43 YEARS, OCCUPATION: PRIST 214,
DURGA PLAZA, DEWAS ROAD (MADHYA PRADESH)**

.....APPLICANT

(BY SHRI VIJAY KUMAR NAGPAL-ADVOCATE)

AND

**DINESH PUJARI S/O SADASHIV PUJARI, AGED ABOUT 68
YEARS, OCCUPATION: PRIST 77, SINHPURI (MADHYA
PRADESH)**

.....RESPONDENTS

(BY SHRI AJAY KUMAR MIMROT-ADVOCATE)

.....

*This application coming on for orders this day, the court passed the
following:*

ORDER

The petitioner has filed the present petition challenging the order dated 21.10.2021 whereby the learned 7th Additional Sessions Judge, District Ujjain has stayed the proceedings of S.T. No.407/2019 on an application filed by the respondent.

2. The present petitioner filed a complaint under Section 200 of Cr.P.C. seeking cognizance under Section 420, 467, 468 and 471 of IPC alleging that the respondent/accused forged the agreement to sale dated 20.04.2003 as well as receipt of Rs.1,50,000/- to grab his land. The petitioner got examined the these documents from Kumari Yogita Singh, Hand Writing Expert, who gave an

opinion that signature of the applicant in receipt is forged. Vide order dated 03.11.2017, the Court found *prima facie* and accordingly took cognizance in it by issuing summon to the respondent.

3. In the present case the respondent filed suit for specific performance before the Civil Court in the year 2011 seeking decree of specific performance of contract dated 20.04.2003, however, the said suit had been dismissed and against which First Appeal No.319/2017 is pending before this Court for adjudication. Vide order dated 09.08.2017, protection was given to the respondent by this High Court.

4. On the basis of the aforesaid pendency of First Appeal, the respondent filed an application before the Trial Court before arguments on charges by producing the copy of the order dated 09.08.2017 passed in First Appeal No.319/2017 and the learned Trial Court has stayed the proceedings of trial and sent the record to the Record Room. Hence, present petition before this Court.

5. Learned counsel for the petitioner submits that the learned Trial Court has wrongly stayed the proceedings of Trial Court due to pendency of Civil Case i.e. First Appeal. The scope of enquiry and adjudication in Civil Case as well as Criminal Case both are altogether different. The Civil Court can only grant the decree or decline the decree of specific performance but for charge of under Section 420, 467, 468 and 471 of IPC, the Civil Court cannot be punished the culprits, which can only be done by the Criminal Court, therefore, the proceedings of the trial has wrongly been stayed.

6. Learned counsel for the respondent submits that when the validity of sale agreement and receipt are under consideration before the High Court in

First Appeal No.319/2017 then Trial Court should not proceed with the Criminal Case, hence, no interference is called for.

7. In Code of Criminal Procedure, there is no such provision or power conferred to the Trial Courts to stay proceedings of trial. Once the charge sheet has been filed then accused either can be discharged or convicted by the Trial Court. There is no such provision to stay the trial by the Trial Court itself. At the most High Court by exercising power under Section 482 of Cr.P.C. or Superior Jurisdictional Revisional Power can quash or stay the proceedings but Trial Court itself cannot stay the proceedings. The judgment relied by learned counsel for the respondent in case of ***Rajendra Singh Vs. Dr. Surendra Singh reported in 1993 (1) MPLR 65*** in which the accused approached the High Court under Section 482 of Cr.P.C. or Revision before Supreme Court seeking quashment of FIR solely on the ground that the dispute purely in civil nature in which the High Court has quashed the proceedings of Criminal Case.

8. In Misc. Criminal Case No.57102/2021 titled as Kailash Vs. Arjun Singh and others (Order dated 21.04.2022), the Coordinate Bench of this Court after relying the judgment passed by the Apex Court set aside the order of rejecting the complaint due to pendency of Civil Suit and directed Magistrate to proceed in accordance with law.

9. There is no definite time period in which First Appeal No.319/2017 would be decided by this Court and if the Trial remain stayed for years together, the memories of complainant and respondent may be fade and witnesses would not be available or possibility of their hostility cannot be ruled out, therefore, the trial court has committed an error in staying the proceedings of trial by traveling beyond its jurisdiction.

10. In view of above, the order dated 21.10.2021 is set aside. Trial Court

is directed to proceed further with the trial in accordance with law.

Praveen

(VIVEK RUSIA)
JUDGE

