

HIGH COURT OF MADHYA PRADESH JABALPUR

Criminal Revision No.1116/2014

Rajkumar and others

Vs.

State of Madhya Pradesh and others

Present : Hon'ble Smt. Justice Anjali Palo

Smt. Amrit Ruprah, learned counsel for the applicants.

Shri Piyush Bhatnagar, learned counsel for the respondents.

ORDER

(Delivered on 28th day of February, 2017)

This criminal revision under Section 397 of the Code of Criminal Procedure is directed against order dated 9.4.2014, passed by 3rd Additional Sessions Judge, Bhopal in S.T. No.70/2011, whereby charges under Sections 420, 120-B, 467, 468 and 471 of the IPC are framed against the applicants.

2. Respondent no.2 and the applicant no.1 Rajkumar are real brothers and Parshuram was their father. On 26.7.1983 Parshuram entered into an agreement by which Usha Beri agreed to sell her plot situated at Sultania Road, Royal Market, Bhopal to Parshuram. Advance money was paid by Parshuram to Usha Beri. It is stated that on the basis of the agreement dated 26.7.1983, a civil suit No.58-A/2001 for specific performance of contract has been filed by the applicant no.1 and Kanhaiyalal respondent no.2 with another brother Lekhraj Bajaj, which was dismissed. Aggrieved by this, the applicants have filed First Appeal

No.77/2002.

3. An authority letter dated 27.11.2008 was produced along with the compromise application. It is alleged that it was never signed by the respondent no.2 Kanhaiyalal and Lekhraj Bajaj. It was fabricated by Rajkumar applicant no.1. The first appeal was disposed in the Lok Adalat on 31.7.2009. To deprive the benefits of the disputed property, false and fabricated compromise has been prepared by Rajkumar applicant no.1 with support of other applicants. Respondent no.2 Kanhaiyalal filed a criminal complaint under Sections 420, 120-B, 467, 468 and 471 of the IPC against the applicants.

4. According to the applicants, no case is made out against the applicants. No motive or intention is shown by the respondent no.1 to commit such an act to fabricate the authority letter. No benefit could be drawn by any applicant by the aforesaid compromise. Hence, applicants prayed to set aside order dated 9.4.2014 and discharge them from the charges under Sections 420, 120-B, 467, 468 and 471 of the IPC

5. Heard the parties. Perused the record.

6. In the alleged compromise dated 27.11.2008, all the applicants are impleaded as parties. They have signed it. F.A. No.77/2002 was dismissed according to the aforesaid compromise and authority letter, whereas, Kanhaiyalal and Lekhraj were not present in the Lok Adalat.

7. As per the respondents they never entered into compromise for settlement of the matter with the applicants. This is the question of fact can only be decided by leading the evidence.

8. A Criminal complaint was filed before the trial Court under

Section 200 of the Code of Criminal Procedure, in which it was alleged that with collusion of the applicant Nos.2 to 4, the applicant No.1 prepared an Authority Letter dated 27.11.2008 with the forged signature of respondents. They prepared a compromise deed on 21.11.2008 for settlement of case before the Lok Adalat. In light of Authority Letter and compromise, the F.A. No.77/2007 was disposed of.

9. No benefit could be granted on the basis of the compromise made in the first appeal, which was arrived on the basis of authority letter allegedly fabricated by the applicants. It cannot be presumed that the compromise was made by the applicants, not to deprive the complainant from the benefits of the disputed property after it was sold jointly. The amount was distributed amongst the parties.

10. The findings of learned trial Court are not perverse and are based on evidence, not suffered from any error of law. The revisional Court is entitled to reverse the findings only when it reaches the conclusion that the findings of the trial Court is perverse. As per the learned counsel for the respondents, evidence of the respondents already recorded in the trial Court. At this stage, revisional jurisdiction cannot be invoked lightly. In the instance case, there are two views possible in the same matter in ordinary course. The view taken by the Court below cannot be interfered by this Court. As principle laid down by the Hon'ble Supreme Court in the case of **"Chitresh Kumar Chopra Vs. State (Government of NCT of Delhi), (2009) 16 SCC 605"** scope of the revisional jurisdiction is very limited.

11. In the cases of **"Harshendra Kumar D Vs. Rebatilata Koley, AIR 2011 SC 1090"**, **"Fateh Chand Bhansali Vs. M/s.**

Hindustan Development Corporation Ltd, (2005) 1 C Cri LR (Call) 581 and **“State of M.P. Vs. Awadh Kishore Gupta and Ors, 2004 SCC (Cri) 352”** it is held as under:-

“..... A defence of the accused and the defence is a matter for consideration at the trial on the basis of evidence which cannot be decided by the Court in revisional jurisdiction.”

While exercising revisional power, it is not proper to consider the defence of the accused. Therefore, at this stage, the defence of the applicants cannot be considered that there was no motive for fabricating the authority letter.

12. On the above grounds, the revision is dismissed.

(Smt. Anjali Palo)
JUDGE

