

Jagmohan Singh vs Vimlesh Kumar on 5 May, 2022

Author: Indira Banerjee

Bench: Indira Banerjee, A.S. Bopanna

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 741 OF 2022
(ARISING OUT OF SPECIAL LEAVE PETITION(CRIMINAL) NO. 9339 OF 2021)

JAGMOHAN SINGH

... APPELLA

VERSUS

VIMLESH KUMAR & ORS.

... RESPON

J U D G M E N T

INDIRA BANERJEE J.

Leave granted.

This appeal is against a judgment and order dated 01.09.2021, whereby, the High Court of Judicature at Allahabad has allowed Criminal Miscellaneous Writ Petition No. 5975/2021 and quashed the the FIR dated 27.03.2021 registered as Crime Case No. 0161/2021 under Sections 419,420, 467, 468, 471, 504 and 506 of the Indian Penal Code at Kotwali Chhibramau, District-Kannauj, Uttar Pradesh.

The Criminal Case/FIR has been quashed in exercise of the power under Section 482 of the Cr.P.C. A copy of the FIR is included in the paperbook.

In the FIR it is stated that the accused-respondents fabricated and forged a will of deceased Ram Swaroop, S/o Mathura Prasad and forged the signatures of Ram Swaroop on stolen stamp papers.

When this fact came to the knowledge of the complainant and to the knowledge of Sunderpal, he made enquiries from the accused- respondent, Vimlesh Kumar and his brothers, who used abusive language and admitted to having forged the will. At this stage, we are not inclined to look into the correctness of the allegations made in the FIR. Ex-facie, the allegations in the FIR disclose an offence. Whether the persons named in the FIR have committed the offence or not, has to be decided upon trial, in the criminal proceedings. The Court interferes in criminal proceedings, in

exercise of the power under Section 482 of the Cr.P.C., in rare and exceptional cases, to give effect to the provisions of the Cr.P.C. or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

While exercising jurisdiction under Section 482 of the Cr.P.C., the High Court should not ordinarily embark upon an enquiry into whether there is reliable evidence or not. The jurisdiction has to be exercised sparingly, carefully and with caution only when such exercise is justified by the specific provisions of Section 482 of the Cr.P.C. itself. The criminal proceedings can be said to be in abuse of the process of Court, to warrant intervention under Section 482 Cr.P.C., when the allegations in the FIR do not at all disclose any offence or there are materials on record from which the Court can reasonably arrive at a finding that the proceedings are in abuse of the process of the Court.

In this case, it appears that the High Court fell in error in taking an adverse view only because the complainant had not challenged the genuineness of the will by bringing any action in a Court of law and further, the respondents had brought a suit for injunction against the complainant.

There can be no doubt that in the civil suit, the burden would be on the plaintiff relying on a will to establish the genuineness of the will on the basis of which relief/permanent injunction is claimed. However, that does not prevent the accused, who can be defendants in such a civil suit from initiating criminal proceedings on the contention that the will is forged/fabricated.

In our considered opinion, the High Court fell in error in quashing the complaint.

The appeal is, accordingly, allowed.

The impugned order is set-aside.

Pending applications, if any, shall stand disposed of.

..... J.

[INDIRA BANERJEE] J.

[A.S. BOPANNA] NEW DELHI;

MAY 5, 2022

ITEM NO.15

COURT NO.8

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.)

No(s). 9339/2021

(Arising out of impugned final judgment and order dated 01-09-2021 in CRMWP No. 5975/2021 passed by the High Court of Judicature at Allahabad) JAGMOHAN SINGH Petitioner(s) VERSUS VIMLESH KUMAR & ORS. Respondent(s) (IA No. 157616/2021 - EXEMPTION FROM FILING O.T.) Date : 05-05-2022 These matters were called on for hearing today. CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE HON'BLE MR. JUSTICE A.S. BOPANNA For Petitioner(s) Mr. Mukesh Giri, Adv.

Mr. Pushkar Sharma, Adv.

Mr. Prashant Shukla, Adv.

Mr. Suyash Srivastava, Adv.

Mr. Sudhir Naagar, AOR For Respondent(s) Mr. Ankit Goel, AOR Mr. Ambuj Ojha, Adv.

Mr. Satyajeet Kumar, AOR UPON hearing the counsel the Court made the following O R D E R The appeal is allowed in terms of the signed order. The impugned order is set-aside.

Pending applications, if any, shall stand disposed of.

(MANISH ISSRANI)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)

(SIGNED ORDER IS PLACED ON THE FILE)