

Dr Sonia Verma & Anr.

v.

The State of Haryana & Anr.

(Criminal Appeal No. 1433 of 2024)

07 March 2024

[Vikram Nath and Satish Chandra Sharma, JJ]

Issue for Consideration

The issue for consideration was a challenge to a decision of the High Court of Punjab & Haryana, refusing to quash the F.I.R. registered u/s. 506, 420, 34, 120-B and 467 of the Penal Code, 1860, against the Appellants/Accused, on the ground that the dispute between the parties was essentially civil in nature.

Headnotes

Criminal Law – Code of Criminal Procedure, 1973 – s. 482 – Inherent powers – Scope of exercise of power for quashing the criminal proceedings:

Held: The High Court ought to have quashed the criminal proceedings when it was apprised of the fact that the substance of the Criminal Complaint served only a cast of doubt on the validity of a commercial transaction and an appropriate civil remedy was already being pursued. [Para 17]

Abuse of Law – Dispute essentially civil in nature, given a cloak of criminality – Circumstances:

Held: Circumstances such as the Complainant/ Respondent No. 2 registering the FIR after the filing of the Civil Suit by the Accused/Appellants, the Complainant selectively implicating the Appellants in a Criminal case, the Complainant's failure to contest the matter before this Hon'ble Court, and the bonafides of the Accused/Appellants in paying the rent before their alleged purchase of the Suit property, can be concluded as an attempt on the part of the Complainant to shroud a civil dispute with a cloak of criminality. [Para 15]

Case Law Cited

Paramjeet Batra v. State of Uttarakhand (2013) 11 SCC 673– relied on.

Digital Supreme Court Reports**List of Acts**

Code of Criminal Procedure, 1973.

List of Keywords

Criminal proceedings; Quashing; Inherent Powers.

Case Arising From

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.1433 of 2024

From the Judgment and Order dated 19.07.2023 of the High Court of Punjab & Haryana at Chandigarh in CRMM No.34512 of 2023.

Appearances for Parties

A.Sirajuddin, Sr. Adv., Chand Qureshi, Mrs. Arpana Soni, Ms. Preeti Chauhan, Mohit Yadav, Mrs. Aarti Pal, Surendra Ramgopal Agarwal, Waseem Akhtar Khan, Advs. for the Appellants.

Abhinav Bajaj, A.A.G., Saksham Ojha, Samar Vijay Singh, Keshav Mittal, Ms. Sabarni Som, Fateh Singh, Advs. for the Respondents.

Judgment / Order of the Supreme Court**Order**

1. Leave granted.
2. The Appellants before us are aggrieved by the order dated 19.07.2023 passed in CRM-M-34512-2023 (the '**Impugned Order**') whereby the High Court of Punjab and Haryana at Chandigarh refused to quash FIR No. 375/2022 dated 31.10.2022 (the '**Subject FIR**'), registered against the Appellants for offences under Section(s) 506, 420, 34, 120-B and 467 of the Indian Penal Code, 1860 (the '**IPC**').

Brief Facts:

3. The uncontested facts are as follows: (i) the Appellants are doctors who are running the Surendra Maternity and Trauma Hospital (the '**Hospital**'), located in village Suthani, Tehsil Bawali, Rewari, Haryana; (ii) the Appellants were paying rent to Respondent No. 2's son at the rate of Rs. 25,000/- per month for the Hospital property until August 2022; (iii) the original owner of the land upon which the Hospital stands was Kaptan Singh i.e., husband of Respondent No. 2.

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4. Thereafter, as per the Appellants version, *vide* registered sale deed No. 1485 dated 23.08.2022 (the ‘**RSD**’), the Appellants purchased the land on which the Hospital stood i.e., Khewat No. 1, Khatauni No. 1, Mustkil No. 33, **Killa No. 26**, village Suthani, Tehsil Bawal, Rewari, Haryana (the ‘**Suit Property**’), for a sale consideration of Rs. 43,00,000/-, from one Sher Singh. Pursuant to this purchase, the Appellants discontinued the payment of rent to Respondent No. 2’s son.
5. Fearing dispossession from the Suit Property, the Appellants filed Civil Suit No. 294/2022 on 27.09.2022, before the Court of Addl. Civil Judge, Bawal, seeking a decree of permanent injunction against Respondent No. 2, her husband and one Babu Lal (the ‘**Civil Suit**’). In the Civil Suit, an order granting ad-interim injunction was passed in favour of the Appellants on 18.11.2022. While granting this protection, the Court found that the Appellants had a *prima facie* case as they had produced three registered sale deeds carrying similar description of the Suit Property in order to establish the chain of transfer leading to their ownership. As per the Appellants, the Suit Property was first transferred by Kaptan Singh to Babu Lal *vide* Sale Deed dated 20.07.2020 and thereafter from Babu Lal to Sher Singh *vide* Sale Deed dated 22.08.2022.
6. On 29.10.2022, FIR No. 372/2022 was registered by the Appellants against three persons, including Kaptan Singh and son of Respondent No. 2 for offences under Section(s) 506, 120-B of the IPC. The Appellants alleged that the accused persons had fraudulently collected rent from them for a prolonged period, despite lacking ownership over the Suit Property and were continuously threatening the Appellants to vacate the Suit Property.
7. Two days later, the Subject FIR was registered against the Appellants and Sher Singh by Respondent No. 2, who claimed that she was the owner in possession of the land upon which the Hospital stood, citing it as Killa No. 8, instead of Killa No. 26. Respondent No. 2 stated that the property was transferred in her favour by Kaptan Singh *vide* Transfer Deed dated 22.08.2017 and that she has never alienated the property. She alleged that the Appellants, in collusion with Sher Singh forged the RSD and wrongly entered the area of the property in the RSD with the intention of usurping her property.

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8. A charge-sheet was filed in respect of the Subject FIR on 17.03.2023 and as on date, the Appellants have been granted anticipatory bail by the High Court.
9. The Appellants then approached the High Court under Section 482 CrPC seeking quashing of the Subject FIR. *Vide* the Impugned Order, the High Court held that the allegations relate to Killa No. 8 in Mustkil No. 33, which the Appellants never claimed to have purchased. On this basis, the Court held that the ingredients of the offences alleged were made out against the Appellants and consequently, the application for quashing was dismissed.

Contentions & Analysis:

10. Learned Counsel for the Appellants forcefully contends that the dispute between the parties is essentially civil in nature and as the appropriate civil remedy is already being pursued by the Appellants, the criminal proceedings arising out of the Subject FIR amount to an abuse of the process of law. In this context, it is also urged that the High Court erred in failing to consider the litigation history between the parties i.e., the pending Civil Suit and the FIR filed by the Appellants against the family of Respondent No. 2.
11. *Per Contra*, Learned Counsel for the State of Haryana submits that there exists sufficient *prima facie* evidence for the Trial Court to proceed against the Appellants and that the mere existence of a civil profile does not justify quashing of criminal proceedings.
12. It is pertinent to note that despite being served, Respondent No. 2 has not contested the matter before us.
13. We have heard the learned counsel for the parties and perused the record.
14. In the considered opinion of this Court, the dispute herein, which forms the genesis of the criminal proceedings initiated by Respondent No. 2 is entirely civil in nature i.e., whether the Appellants are in lawful possession of the Suit Property or, in essence, whether the RSD is valid. To that extent, the Appellants have already taken recourse to the appropriate civil remedy to establish their claim before the Civil Court. The grievance of Respondent No. 2 i.e., whether the RSD is forged and fabricated is an issue that will be considered by the Civil Court while making its determination.

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15. A closer examination of the surrounding facts and circumstances fortifies the conclusion that an attempt has been made by the Respondent No. 2 to shroud a civil dispute with a cloak of criminality. The following aspects of the case are pertinent to note: (i) Respondent No. 2 registered the Subject FIR subsequent to the filing of the Civil Suit and the filing of FIR No. 372/2022 by the Appellants; (ii) the chain of sale deeds produced by the Appellants contain identical descriptions of the Suit Property and yet Respondent No. 2 has pursued criminal action only against the Appellants and Sher Singh and not against Babu Lal and her husband; (iii) Respondent No. 2 has failed to contest the present matter before this Court; (iv) the admitted position that the Appellants were bona fide in their payment of rent before their alleged purchase of the Suit Property.
16. This Court in **Paramjeet Batra v. State of Uttarakhand & Ors.**¹ has expounded on the scope of exercise of power under Section 482 CrPC whilst dealing with similar matters:

"7. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash criminal proceedings to prevent abuse of process of court."

17. Therefore, when the High Court was apprised of such a matter wherein the substance of the criminal complaint served only to cast doubt on the validity of a commercial transaction (in this case, a sale deed for the transfer of property), and the appropriate civil remedy

¹ Criminal Appeal No. 2069 of 2012

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was already being pursued, the High Court ought to have quashed the criminal proceedings.

18. For the reasons stated above, the Impugned Order is set aside and the entire criminal proceedings arising out of the Subject FIR are quashed and set aside. Needless to say, this order shall not have any effect on the Civil Suit pending between the parties and the same shall be decided in accordance with law.
19. Resultantly, the appeal stands allowed.
20. Pending applications, if any, shall also stand disposed of.

Headnotes prepared by:

Prastut Mahesh Dalvi, Hony. Associate Editor
(Verified by: Liz Mathew, Sr. Adv.)

Result of the case:

Appeal allowed.