

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2100 of 2013

Ashfaq Ahmed Quereshi & Anr.

...Appellants

Versus

Namrata Chopra & Ors.

...Respondents

O R D E R

Dr. B.S. CHAUHAN, J.

1. This appeal has been preferred against the impugned judgment and order dated 15.3.2012 passed by the High Court of Madhya Pradesh at Jabalpur in M.Cr.C. No. 8882/2011, by which the High Court has quashed the criminal proceedings against the respondent Nos. 1 and 2 in exercise of its power under Section 482 of Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.').

2. Facts and circumstances giving rise to this appeal are that:

A. The appellants entered into an agreement for sale of land admeasuring 1.10 acres of land out of 2.20 acres of total land on 26.11.2009 which had been claimed by the said respondents 1 & 2 to be of their exclusive ownership and for that appellants paid a sum of rupees fifty lakhs to the said respondents as earnest money out of the consideration of Rs.1,50,93,540/-.

B. The sale deed could not be executed as the appellants did not make the payment for the reason that the said respondents did not complete the legal formalities for transferring the land. Later on, the appellants came to know that the said respondent Nos.1 & 2 alongwith other co-sharers had got permission dated 27.3.2006 from the Municipal Corporation of Bhopal for construction of the Club House on the part of the said land and the subject matter of agreement to sell had been shown therein as open land for parking purposes. The Club House has already been constructed on the land and the suit land is to be used only for parking purpose.

C. After realizing that the appellants got cheated, there had been claims and counter claims between the parties and ultimately several notices were exchanged between the parties. The appellants claimed a refund of rupees fifty lakhs with interest, while the respondents wanted to forfeit the earnest money for non-payment of further instalments as agreed by the parties. The appellants filed a complaint under Section 200 Cr.P.C. on 26.8.2010.

D. As the respondents came to know about filing of the complaint they sold the suit property to one Ms. Nanhi J. Walia on 23.10.2010.

E. In the complaint case, evidence of the complainant and his witnesses were recorded in November, 2010 and being satisfied, the learned Magistrate took cognizance vide order dated 6.12.2010 for the offence punishable under Section 420 of Indian Penal Code, 1860.

F. All the shares of other co-sharers of the said respondent Nos. 1 & 2 were also sold on 23.2.2011 to Ms. Nanhi J. Walia.

G. Aggrieved, the respondent Nos. 1 & 2 filed a petition under Section 482 Cr.P.C. for quashing the complaint qua them on the ground

Date:17/12/2013 This Appeal was called on for pronouncement of order today.

For Appellant(s) Mr. Vikas Upadhyay,Adv.

For Respondent(s)

M/S. Ap & J Chambers,Adv.

Mr. Mishra Saurabh,Adv.

Mr. Amlan Kumar Ghosh,Adv.

Hon'ble Dr. Justice B.S. Chauhan pronounced the order of the Bench comprising of His Lordship and Hon'ble Mr. Justice S.A. Bobde

Appeal is allowed in terms of the signed reportable order.

(O.P. Sharma)

Court Master

(Signed reportable order is placed on the file)

(M.S. Negi)

Assistant Registrar
