

Criminal Revision
Present: **The Hon'ble Justice Ashim Kumar Roy**
Judgment on: 22.02.2010
C.R.R. No. 4201 of 2006
With
CRAN No. 3093 of 2009
Amiya Kumar Patra
versus
The State of West Bengal & Anr.

Point:

QUASHING: - Issues are pure questions of facts - Whether case can be quashed - Code of Criminal Procedure, S. 482

Fact: The petitioner by filing the instant application has prayed for quashing of a case relating to the offences punishable under Sections 420/406/506/379/323/120B/34 of the Indian Penal Code primarily on the grounds that the allegations are absolutely false, the dispute, if any, is civil in nature, the signature of the petitioner was taken in a blank paper which has then converted to a purported agreement and the complainant never approached a competent Court for specific performance of contract.

Held: Whether the allegations are true or false and whether the signature of the accused was taken in a blank paper and then the same has been converted to an agreement are all pure questions of facts and cannot be gone into at this stage.

Paragraph – 2

For Petitioner : Mr. Asok Kumar Janah
Mrs. Pampa Dey (Dhabal)

For O.P. No. 2 : Mr. Mahenda Prasad Gupta

The Court:

Invoking Section 482 of the Code of Criminal Procedure the petitioner has moved this Court for quashing of a case relating to the offences punishable under Sections 420/406/506/379/323/120B/34 of the Indian Penal Code on the following grounds;

- (a) The allegations are absolutely false.
- (b) The dispute, if any, is civil in nature.
- (c) The signature of the petitioner was taken in a blank paper which has then converted to a purported agreement.
- (d) The complainant never approached a competent Court for specific performance of contract.

2. Now, having gone through the allegations made in the complaint, I find it is the case of the complainant that towards the sale of a two storied building, the present petitioner took a total sum of Rs. 1,75,000/- from the complainant as advance. Such advance was taken by the accused by executing an agreement. Thereafter, the complainant on several occasions requested the petitioner to execute the deed of sale but the accused in one pretext or other avoided execution of sale deed. Thereafter, on 7th of September, 2006 at about 7.30 P.M. when the complainant went to the house of the accused/petitioner and offered to pay the balance amount and requested him to execute the sale deed, the complainant physically assaulted him and drove him out from his residence without either refunding the advance amount or by executing the sale deed. On the face of those allegations, it cannot be said no offence for which the Court has taken cognizance has been made out. Whether the allegations are true or false and whether the signature of the accused was

taken in a blank paper and then the same has been converted to an agreement are all pure question of facts and cannot be gone into at this stage.

This criminal revision has no merit and accordingly stands dismissed.

In view of dismissal of the main criminal revisional application, the application for extension of interim order being CRAN No. 3093 of 2009 become infructuous and accordingly stands disposed of.

Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)