

Criminal Revision

Present: The Hon'ble Justice Asim Kumar Roy

Judgment on: 07.04.2010

CRR No. 4105 of 2009

With

CRAN 521 of 2010

Samsuddin Kha & Ors

Vs.

The State

POINTS:

QUASHING- Grounds for quashing of the complaint are all disputed question of facts and are essentially the matter of defence-Whether be taken into consideration- From the content of the impugned complaint, it cannot be said that no offence has been made out- Indian Penal Code, Sections 147/379-Code of Criminal Procedure, 1973 S. 482

FACTS:

The petitioners have approached the Court for quashing of a complaint case relating to the offence punishable under Sections 147/379 of the Indian Penal Code on the ground that the allegations are absolutely false and over the selfsame plot of land, several civil cases are pending by and between the parties. It was also contended the factum of pendency of the aforesaid civil suits has been suppressed in the complaint.

HELD:

The grounds on which the petitioners have sought for quashing of the complaint are all disputed question of facts and are essentially the matter of defence, which cannot be gone into at this stage. Having gone through the content of the impugned complaint, it cannot be said that no offence has been made out.

Paras-4&5

Mr. Satyajit Mandal
Mr. Suranjan Mandal ... for the petitioners/applicants
Mr. Kashem Ali Ahmed ... for the State (in CRR 4105/09)

Mr. Swapan Kumar Mullick ... for the State (in CRAN 521/2010)

THE COURT:

1. Both the Criminal Revisional Application, namely, CRR No. 4105 of 2009 and the application for stay being CRAN 521 of 2010 are taken up for hearing together.
2. Heard Mr. Satyajit Mandal, Learned Counsel, appearing for the petitioners with Mr. Suranjan Mandal, Mr. Kashem Ali Ahmed, Learned Counsel, appearing for the State in the main Criminal Revision and Mr. Swapan Kumar Mullick, Learned Counsel, appearing for the State in connection with the application for stay. In spite of repeated calls, none appears on behalf of the complainant/opposite party no. 2.
3. Invoking Section 482 of the Code of Criminal Procedure, the petitioners have approached this Court for quashing of a complaint case relating to the offence punishable under Sections 147/379 of the Indian Penal Code on the ground that the allegations are absolutely false and over the selfsame plot of land, several civil cases are pending by and between the parties. It was also contended the factum of pendency of the aforesaid civil suits has been suppressed in the complaint.
4. The grounds on which the petitioners have sought for quashing of the complaint are all disputed question of facts and are essentially the matter of defence, which cannot be gone into at this stage.
5. Moreover, having gone through the content of the impugned complaint, it cannot be said that no offence has been made out.
6. This criminal revision has no merit and accordingly stands *dismissed*.
7. In view of dismissal of the main Criminal Revisional Application, the application for stay being CRAN 521 of 2010 is also *dismissed*.
8. Criminal Section is directed to supply the urgent Photostat certified copy of this order to the parties, if applied for.

(Ashim Kumar Roy, J.)

