

Criminal Revision

Present: **The Hon'ble Justice Ashim Kumar Roy**

C.R.R. No. 839 of 2010

Judgment On: 07-04-2010.

Smt. Parbati Naskar @ Mondal & Ors
versus
State of West Bengal & Anr

POINTS:

QUASHING-Petitioner no.1 sold the property by replacing two pages of the Power of Attorney- Correctness of such allegations whether a matter to be decided in trial on evidence-Indian Penal Code Ss. 418/420/465/467/468/471/120B-Code of Criminal Procedure, 1973 S.482

FACTS:

The defacto-complainant has executed a power of attorney empowering and authorizing the petitioner no. 1, his niece, to negotiate sale of a particular plot of land. However, the petitioner no. 1 by forging the said power of attorney and by changing the schedule of land included more lands. Thereafter, the said lands were sold to the petitioner no. 2, the husband of the petitioner no.1. Petitioner no. 3 is a witness to the power of attorney.

HELD:

The petitioners' application for anticipatory bail was rejected by this Hon'ble Court having found sufficient materials in the Case Diary against them. On the face of evidentiary materials collected during investigation it cannot be said that no offence has been made out against the petitioners. It is the case of the prosecution in the original power of attorney although the petitioner no. 1 was empowered and authorized to sell only .71 decimal of land but she by replacing two pages, inserted 40 decimal in place of .71 decimal and thereafter sold the said land in question to her husband, the

petitioner no. 2. The petitioner no. 3 is the witness to the said power of attorney. Whether such allegations are true or false or whether there is any scope to manipulate the power of attorney is a matter can only be decided in trial on evidence and cannot be gone into at this stage. Paras-2&3

For Petitioner : Mr. Shataroop Purkayastha

For State : Mr. Swapan Kumar Mullick

THE COURT:

1. Invoking Section 482 of the Code of Criminal Procedure, the petitioners who have been charge-sheeted under Sections 418/420/465/467/468/471/120B of the Indian Penal Code, have moved this Court for quashing of the same.

2. It is the case of the prosecution that the defacto-complainant has executed a power of attorney empowering and authorizing the petitioner no. 1, his niece, to negotiate sale of a particular plot of land, however, the petitioner no. 1 by forging the said power of attorney and by changing the schedule of lands, included more lands. It is the further case of the prosecution that thereafter the said lands were sold to the petitioner no. 2, who happened to be the husband of the petitioner no. 1. So far as the petitioner no. 3 is concerned, he is a witness to the power of attorney.

The learned advocate appearing on behalf of the petitioners vehemently urged before this Court that the allegations are absolutely false and there is no scope to change the pages in the power of attorney because the same is a registered document.

On the other hand, Mr. Swapan Kumar Mullick, the learned advocate appearing on behalf of the State vehemently opposed the prayer for quashing and submitted that earlier the petitioners' application for anticipatory bail was rejected by this Hon'ble Court having found sufficient materials in the Case Diary against them.

3. I have given my anxious and thoughtful considerations to the rival submissions of the parties and perused the Case Diary. In my opinion, on the face of evidentiary materials collected during investigation it cannot be said that no offence has been made out against the petitioners. It is the case of the prosecution in the original power of attorney although the petitioner no. 1 was empowered and authorized to sell only .71 decimal of land but she by replacing two pages, inserted 40 decimal in place of .71 decimal and thereafter sold the said land in question to her husband, the petitioner no. 2. The petitioner no. 3 is the witness to the said power of attorney. Whether such allegations are true or false or whether there is any scope to manipulate the power of attorney is a matter can only be decided in trial on evidence and cannot be gone into at this stage.

4. This criminal revision has no merit and accordingly stands dismissed. Interim order, if any, stands vacated.

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

(Ashim Kumar Roy, J.)