

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.226 OF 2015  
(Arising out of SLP (Crl.) No. 3127 of 2014)

SAMARPAN CHAKRABORTY & ANR.

..APPELLANTS

VERSUS

STATE OF JHARKHAND & ANR.

..RESPONDENTS

WITH

CRIMINAL APPEAL NO.227 OF 2015  
(Arising out of SLP (Crl.) No. 5291 of 2014)

O R D E R

Crl.A. No.226 of 20145 @ SLP (Crl.)3127/2014

Leave granted.

This appeal has been preferred by the appellants against the order dated 5/12.02.2014 passed by the High Court of Jharkhand at Ranchi in Crl. M.P. No.329/2013.

By

impugned order, the High Court while setting aside the criminal proceedings so far as Smt. Mukti Chakraborty

concerned held that prima facie case of deception is found against the appellants and there is no illegality in the order taking cognizance against them.

Pursuant to a complaint C.P.case No. 545/2012 filed by the complainant-Sri Ashok Kumar Singh (Respondent No.2 herein), the Trial Court by order dated 30th November, 2012

cognizance of offence punishable under Sections 406, 467, 468, 471, 420 and 120B IPC against the appellants. On account of the order being challenged before the High Court, it was upheld insofar as it relates to appellants-Samar

Chakraborty and Samiran Chakraborty.

Signature Not Verified

Digitally signed by  
Rajni Mukhi

The learned counsel appearing on behalf of the appellants

Date: 2015.02.16  
13:27:04 IST

Reason: submits that it is a pure civil dispute relating to purchase of land and no criminal offence is made out in the complaint.

On the other hand, learned counsel for complainant No.2 submits that there is a pre-planned conspiracy of the accused persons, who had shown wrong papers to the complainant and cheated the complainant for getting a sum of Rs.4 lakh from him.

We have noticed the rival contentions and perused the records, relevant portion of the complaint C.P.Case No. 545/2012 reads as follows:

"3. That around two years back the accused Narayan Chakraborty accompanied with his two sons (Samarpan Chakraborty and Samiran Chakraborty) and Sidhhanath Singh and Birendra Kumar Sharma to whom the complainant was acquainted contacted the complainant

at his chamber located inside the Dhanbad Court's Premises. Amongst those accused persons, Samarpan Chakraborty introduced himself as managing director of a company named as Swarupa Project Private Limited and Narayan Chakraborty introduced himself as owner of that company and it was claimed that company was doing building construction and architectural works. They gave a booklet and form regarding project of the company, in that reports were there related with the company's works.

4. That, the accused persons made the complainant full assured that there were the Plot nos. 06, 07, 67, 68 of Dhaiya Mauza No.06, Khata NO.196 total area admeasuring 8.80 acres Jo Hamlog Ki Raiyati Khatey Ki Jamin Hai (which is our land of Raiyati Khata). And we are going to launch our project at this very same land. Samarpan Chakraborty and Samiran Chakraborty shown the said plots of the land to the complainant and Samiran Chakraborty gave receipts of the said land for 2009 - 10 also to the complainant.

5. That, Samarpan Chakraborty made the complainant assured that under this project firstly we shall execute Registry in small plots of the land in the names of the persons who wished thereafter would construct duplex houses on the said plots. (Map of the division of plots is annexed). But currently they are undergoing phase of tough financial crunch.

6. That after taking him under his full confidence, the accused Narayan Chakraborty demanded Rs. 4 Lakh from the complainant on 20.09.10 at the Dhanbad

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Court's Premises for the payments of labour and staffs working in their project and he assured the complainant that he would return his money up to 30.1.11. If unfortunately he did not do that then he would execute registry of ten Kathha land from the said Raiyati Land in the name of the complainant and would construct there a good duplex free of cost.

7. That, becoming assured from the averments made by the accused persons, from the sum of money gave him by his father (a farmer), the complainant gave Rs 4 Lakh from the accused persons on 13.10.10 at the Court's Premises in Dhanbad in presence of the witnesses Siddhhanath Singh and Birendra Kumar Sharma. In exchange to that the accused Narayan Chakraborty gave an agreement deed of 10 Kathha Land from the Plot No. 07 of Mauza No. 06, Khata No. 196 also. (A copy of the agreement deed is annexed). Accused Samiran Chakraborty told the complainant for executing an agreement deed in the name of his father, the complainant did the same.

8. That, after this the accused received Rs. One Lakh on 22.10.10 and Rs. 60000/- on 29.10.10 respectively in presence of the witnesses Sidhhanath Singh and Birendra Kumar Sharma from the complainant at the court's premises in Dhanbad in the name of his land and for the payments to the labour and staff.

9. That, the complainant firstly sought information

from the Public Information Officer - cum - Circle Officer on 3.05.11 regarding the said land then he got information that concerned land is the land of Gair Abad Khata. (A copy of the information is annexed). Whereas the accused persons had assured that complainant that the said land is the land of Raiyati Khata."

The learned counsel for the appellants brought to our notice, a letter dated 27th August, 2011 issued from the office of circle Officer, Dhanbad Gyapauk 1174. Pursuant to information supplied under Section 5 of the Right to Information Act, the complainant/Respondent No.2 was informed that the land in question for which agreement was reached between the complainant and the accused-appellants is in the name of Dhirendra Chakraborty who is the father and grand

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father of the accused appellants. The relevant portion of the letter dated 27.8.2008 is quoted below:

"Office of Circle Officer, Dhanbad Gyapauk 1174, dated 27.08.2011

To

Sri Ashok Kumar Singh, Advocate  
Sa.D.Block Sector - 08, Quarter No. 91, Bhuli Dhanbad.

Sub :-The information supplied under section 05 of Right to Information Act. You have asked the information about your application.

1. The information point wise are followed. This information cannot be supplied about the total area of Mauza Bhuli Mauza No. 01, Khata No. 36, Plot No. 2198 and 2200 because the khatian of last survey record is torn aforesaid land belongs to Raiyati Khata.
2. The described khata receipt Jamabandi No. 36 is described in the name of Dasrath Mahto.
3. Because the record is torn and very old hence the name cannot be supplied.
4. Information as per serial No. 3.
5. This information is not related to Circle Office.
6. This information is not related to Circle Office.
7. The asked land Mouza Dhaiya, Mauza no. 06, Khata No. 196 belongs to gair abadi khata.
8. The land in question Mauza Office, Mauza no. 06 Khata No. 196, Plot No. 6, 7, 67, 68, area 8.80 acre is name in the name of Dhirendra Chakraborty S/o Sri. Sarat Chandra Chakraborty vide Jamabandi no. 291.
9. The aforesaid Jamabandi began has been fixed/ approved vide case No. 45 (II) 1968-69. But

the previous circle officer has stayed the  
Jamabandi.

10. This information is not available in this  
office.

Information supplied.

Sd/-  
Circle officer cum  
Public Information Officer,  
Dhanbad"

From the aforesaid letter prima facie it appears that the  
land belongs to an individual and may not be Gairabadi land  
as submitted on behalf of the complainant. However, it is a  
matter of civil dispute and we find that no criminal offence  
is made out for taking cognizance against the appellants.

For the reason aforesaid, we set aside the impugned order  
dated 05/12.02.2014 passed by the High Court of Jharkhand at  
Ranchi is so far as it relates to the appellants and quash the  
proceedings including the order dated 30.11.2012 of taking  
cognizance pursuant to C.P.Case No. 545/2012.

The appeal is allowed.

Crl. Appeal No.227 of 2015 @ SLP(Crl.)5291/2014

Leave granted.

This appeal has been preferred by the appellant against  
the order dated 5/12.02.2014 passed by the High Court of  
Jharkhand at Ranchi in Crl. M.P. No.1356/2013.

The appeal is allowed in terms of the order passed in  
Criminal Appeal No.226 of 2015 @ SLP (Crl.) No.3127/2014.

However, this order shall not come in the way of the  
complainant to move before the Court of Competent  
Jurisdiction for an appropriate relief, if not barred by  
limitation.

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In such case, the Trial Court will decide the same  
uninfluenced by the order passed by this Court.

.....J.  
[SUDHANSU JYOTI MUKHOPADHAYA]

.....J.  
[VIKRAMAJIT SEN]

NEW DELHI;  
FEBRUARY 04, 2015

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ITEM NO.5 COURT NO.4 SECTION IIA  
CORRECTED COPY

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3127/2014  
(Arising out of impugned final judgment and order dated

05/12/02/2014 in CRMP No. 329/2013 passed by the High Court of Jharkhand at Ranchi)

SAMARPAN CHAKRABORTY & ANR.

Petitioner(s)

VERSUS

STATE OF JHARKHAND & ANR.

Respondent(s)

(with appln. (s) for stay and office report)

WITH

SLP(Crl) No. 5291/2014

(With appln.(s) for stay and )

Date : 04/02/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Mr. D.K. Thakur, Adv.  
Mr. Devendra Jha, Adv.  
Mr. Bhupindra Sharma, Adv.  
Mr. Nitin Kumar Thakur, Adv.

For Respondent(s) Mr. Umesh Babu Chaurasia, Adv.  
Mr. Dharmendra Kumar Sinha, Adv.  
Ms. Manjula Chaurasia, Adv.

Mr. Tapeshe Kumar Singh, Adv.  
Mohd. Waquas, Adv.

Mr. Gopal Prasad, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals are allowed in terms of the Signed Order.

(Rajni Mukhi)

Sr. P.A.

(Suman Jain)

Court Master

Signed Order is placed on the file)