

ITEM NO.2

COURT NO.4

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl) No(s).4080/2011

(From the judgement and order dated 10/02/2011 in CRMWP No. 2413/2011 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

MOHAN LAL GUPTA

Petitioner(s)

VERSUS

STATE OF U.P.&amp; ORS.

Respondent(s)

(With appln(s) for stay of arrest and exemption from filing O.T. and office report)

Date: 16/05/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Petitioner(s) Mr.S.C.Maheshwari, Sr.Adv.  
Ms. Sandhya Goswami, Adv.  
Mr.Jabar Singh, Adv.  
Mr.M.P.S.Tomar, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

This petition is directed against order dated 10.02.2011 passed by the learned Single Judge of the Allahabad High Court who declined the petitioner's prayer for quashing F.I.R. dated 29.1.2011 registered at P.S. Kothwali, Bulandshahr for offences under Section 460/465/467/468/469/471/472 read with Section 120-B of the Indian Penal Code.

The substratum of the F.I.R. is that after Subodh Kumar, s/o Late Kalicharan, succeeded in persuading the High Court of

2

Allahabad to allow the second appeal filed by him in a suit for eviction filed against District Council, Bulandshahr (now Zila Parishad, Buladshahr) in respect of 802 sq.yd. of land (plot bearing Old No.1345 - New No.1180), he executed sale deeds in favour of the petitioner and others for a total area of 4446.02 sq.yds. On coming to know of the transfer of the land far in excess of the decree passed by the High Court, the Zila Parishad

lodged the first information report.

Subodh Kumar and others filed Wit Misc. Petition No.11650/2011 with the prayer that the Court below may be directed to dispose of the bail application filed by them. The learned Single Judge disposed of the petition on 13.4.2011 with the direction that in case the applicants appear before the concerned Court within 30 days and apply for bail, the same shall be considered and disposed of expeditiously, if possible, on the same day.

Thereafter, Smt. Sudha Rani filed Bail Application No.900/2011, which was dismissed by Additional Session Judge (No.2), Bulandshahr vide his order dated 21.4.2011. The learned Additional Session Judge took notice of the plea of the applicant that by mistake, the area of the land mentioned in the original suit was 802 sq.yd. though, as a matter of fact, Kalicharan was entitled to 8020 sq.yds. This plea was negatived by learned Additional Session Judge who held that in view of the decree passed by the High Court, Subodh Kumar had no right to sell more than 802 sq.yds. of land and the sale of excess land amounted to fraud. He, accordingly, dismissed the bail application.

3

After dismissal of the bail application, the petitioners filed writ petition under Article 226 of the Constitution for quashing the first information report. The Division Bench of the High Court dismissed the same by observing that the contents of the first information report, prima facie, disclose the offences alleged against the petitioner.

We have heard learned counsel for the petitioner and carefully perused the record. In our view, the impugned order does not suffer from any legal infirmity requiring interference under Article 136 of the Constitution.

The special leave petition is accordingly dismissed. However, four days' time is allowed to the petitioner to surrender before the concerned Court. At the same time, it is made clear that the Court before which any petition is filed by the petitioners shall not be influenced by the fact that this Court has extended the time

for surrender.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master