

IN THE COURT OF THE 1ST ADDL. SESSIONS JUDGE- CUM-
SPECIAL JUDGE (VIGILANCE) BHUBANESWAR.

Present :

Shri N.Sahu, LL.B.,
Special Judge (Vigilance) Bhubaneswar.

Crl. Revision No. 4/62 of 2012/2010

(Arising out of the order, dt.20.9.2010 passed
in I.C.C. Case No.3057(A)/2009 by the learned
SDJM, Bhubaneswar).

Kanhai Charana Mahakud, aged about 75 years,
Son of Late Dhuni Mahakud of Plot No.787,
Malaya Vihar, Rasulgarh, Bhubaneswar, Dist.Khurda

.... Petitioner.

-Versus-

1. Sri P.Gopal Krishna, aged about 45 years,
Son of P.Sundar Rao, At-Prem Nagar,
1st line, PO-Berhampur, Dist.Ganjam.
2. Epari Sadasiv Rao, aged about 55 years,
Son of Not known, Epari Sadasiv Jewellery,
Janapath, Kharavela Nagar, Bhubaneswar, Dist.Khurda.
(Abated vide order, dt.18.1.2012).
3. Rabindra Gouda, aged about 45 years,
Son of not known, Epari Sadasiv Jewellery,
Janapath, Kharavela Nagar, Bhubaneswar, Dist.Khurda.
4. Banamali Mahakud, aged about 79 years,
Son of Late Dhuni Mahakud of House No.LB-93,
Stage-IV, Jharpada, PS-Laxmisagar,
Bhubaneswar, Dist.Khurda.
5. Rashmi Ranjan Mahakud, aged about 38 years,
Son of Late Jadumani Mahakud,
C/o.Sabitri Drug House and Clinic,
HIG-37, Housing Board Colony,
Kolathia, Bhubaneswar-30.
6. Bijaya Kumar Jena, aged about 50 years,
Son of Not known of BJ-25, BJB Nagar,
Bhubaneswar, Dist.Khurda.

.... Opp. Parties.

For the Petitioner : Sri S.N.Das & Associates.

For the Opp.Parties : None.

Date of argument : 07.11.2013.

Date of judgment : 20.11.2013.

J U D G M E N T

1. The petitioner has filed this revision challenging the order, dt.20.9.2010 of the Learned SDJM, Bhubaneswar passed in I.C.C. Case No. 3057(A)/2009.

2. The background of the case is that the petitioner had filed one complaint petition against the O.Ps. which was registered as I.C.C.No.3057(A)/2009. The learned lower Court recorded the initial statement of the complainant on 16.11.09 and posted the case for enquiry u/s.202 Cr.P.C. On 21.8.10 the complainant filed a memo to close his evidence. Vide order, dt.20.9.10 the learned lower Court held that the essential ingredients of the offences u/s.420/467/468/471/34 IPC alleged in the complaint petition are missing and the dispute is civil in nature and there are patent absurdities in the evidence produced by the complainant. So, he dismissed the complaint petition u/s.203 Cr.P.C.

3. The learned counsel for the petitioner has challenged the said order on the ground that the lower Court committed gross error and had not applied judicial mind and dismissed the application in a mechanical manner.

4. Perused the materials on record. The complainant had filed the complaint petition against the accused persons on the allegation of commission of offences u/s. 420, 467, 468, 471/34 IPC. No document was filed along with the complaint petition nor the complainant during his initial statement has adduced any documentary evidence. After recording the initial statement of the complainant, the learned Magistrate adjourned the case for enquiry u/s.202 Cr.P.C. But, for the reasons best known, the complainant did not adduce any evidence u/s.202 Cr.P.C. After a prolonged period of about 9 months, the complainant filed a memo closing his evidence. The averments of the complaint petition and the initial statement of the complainant recorded by the Magistrate show

that there was some dispute among the parties regarding payment of money and sale of land. The learned counsel for the petitioner in Para-2 of the appeal memo has stated that the documentary evidence so available on record clearly proves that the petitioner has a good case for taking cognizance and no oral enquiry is required. But, as stated above no document has been filed by the complainant along with the complaint petition or during recording of his initial statement.

5. The learned Magistrate on considering the averments of the complaint petition and the statement of the complainant recorded u/s.200 Cr.P.C. found that the essential ingredients of the offences alleged are missing and there is patent absurdities in the evidence adduced by the complainant.

6. Considering these facts and circumstances of the case, I do not find any illegality in the order of the learned lower Court dismissing the complaint petition u/s.203 Cr.P.C. Hence, it is ordered.

ORDER

The Revision is dismissed without cost.

1st Addl. Sessions Judge-Cum-Special Judge
(Vigilance),Bhubaneswar.

The judgment having been typed to my dictation and corrected by me and being sealed and signed by me is pronounced in the open court today this the 20th day of November, 2013.

1st Addl. Sessions Judge-Cum-Special Judge
(Vigilance),Bhubaneswar.