

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. 1859 OF 2017  
(Arising out of SLP(Crl.)No.7689/2016)**

**ANKUR GUPTA**

**... APPELLANT**

**VS.**

**STATE OF U.P. & ANR.**

**... RESPONDENTS**

**ORDER**

1. Leave granted.
2. This appeal arises out of the judgment dated 23.8.2016, passed by the High Court of Judicature at Allahabad in Criminal Misc. Application No. 24187/2016 filed under Section 482 of the Criminal Procedure Code, by which the High Court has dismissed the petition filed by the appellant.
3. Records reveal that the parents of the appellant, namely, Ajya Kumar Gupta and Smt. Anuradha Gupa, entered into an agreement to sell dated 14.1.1997 with

**.2.**

**Respondent No.2 herein. The sale consideration was Rs.33,50,000/- (Rupees Thirty Three Lakhs Fifty Thousand only); the parents of the appellant received earnest money of Rs.6,50,101/- (Rupees Six Lakhs Fifty Thousand One Hundred One only) and remaining amount was to be paid at time of registration of the sale deed. The appellant however denies about the receipt of earnest money of Rs.6,50,101/- by his parents. It seems that the said transaction for agreement to sell was not completed. Civil Suit in that regard is filed and is pending. Respondent No.2 lodged the complaint before the police authorities, Rampur, making allegations of cheating, breach of trust, etc., against the parents of the appellant as well as the appellant, which came to be registered as FIR No.03/2016 for the offences under Sections 406, 420 and 506 of the Indian Penal Code (IPC). Charge-sheet No.23/2016 also came to be filed against the three persons, including the appellant. Cognizance was taken**

**..3/-**

**.3.**

**by the Chief Judicial Magistrate, Rampur, against the appellant and his parents.**

**The appellant moved an application before the High Court of Judicature at Allahabad in Criminal Misc. Application No.24187/2016 under Section 482 Cr.P.C. for quashing the proceedings against him and the same came to be dismissed by the impugned judgment.**

**4. There cannot be any dispute that the parents of the appellant on the one side and the respondent on the other entered into an agreement to sell in respect of a property, i.e., House No.18, Mohalla Peepal Tola, Rampur (U.P.); the parents of the appellant are the owners of the said property; the original agreement to sell dated 4.1.2013 was entered between only the parents of the appellant and Respondent No.2; the earnest money was allegedly paid to the parents of the appellant. It is also not in dispute that the appellant is not the owner of the property in question. He was neither a witness nor a**

**..4/-**

**.4.**

**party to the agreement to sell or any other document whatsoever. Initially Respondent No.2 – Complainant lodged a complaint on 24.8.2014 only against the parents of the appellant and not against the appellant. The first legal notice dated 9.5.2015 sent by the complainant through his counsel does not disclose any allegation against the appellant. The Civil Suit filed by Respondent No.2 and another on 1.1.2016 was only against the parents of the appellant and not against the appellant. Since there is no allegation against the appellant in respect of the transaction, i.e., agreement to sell, it is clear that subsequently the complaint is lodged by Respondent No.2 against the appellant only to cause hardship to him. Except the bald allegation that the appellant also accompanied his parents at the time of negotiations in respect of the agreement to sell, no other material is found against the appellant. In this regard, learned counsel for the appellant is justified in arguing**

**..5/-**

**.5.**

**that the Criminal Proceeding against appellant based on false and frivolous allegation is liable to be quashed as against the appellant.**

**5. This Court, in a number of decisions, gave notice of caution to the effect that the power of quashing the criminal proceedings should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. The extraordinary or inherent powers as contained in Section 482 of the Code of Criminal Procedure do not confer an arbitrary jurisdiction on the Court to act according to its whims and caprice. The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution. However, it is by now well settled that where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the person and with a**

**..6/-**

**.6.**

**view to spite him due to private and personal grudge, the power under Section 482 of the Cr.P.C may be exercised. Such power will be exercised either to prevent abuse of the process of Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised. (Reference may be made to the judgments of this Court in the cases of State of Haryana vs. Bhajan Lal, (1992) Supp. (1) SCC 335; Pepsi Foods Limited vs. Special Judicial Magistrate, AIR 1998 SC 128; Trisuns Chemical Industry vs. Rajesh Agarwal, (1999) 8 SCC 53; Rajesh Bajaj vs. State(NCT) of Delhi, (1999) 3 SCC 259; K. Ramakrishna v. State of Bihar, (2000) 8 SCC 547; M/s Indian Oil Corporation vs. M/s Npc India Limited, AIR 2006 SC 2780; and Vineet Kumar**

**..7/-**

**.7.**

**and others v. State of UP and another 2017 (4) SCALE 292.**

**6. When a complaint does not make out any case against the accused, it will not be correct to say that the accused must still undergo the agony of criminal trial. When there is an abuse of process of law and the Courts, the High Court should not shy away in exercising its jurisdiction. The provisions of Section 482 of the Cr.P.C. are devised to advance justice and not to frustrate it. The allegations made in the first information report or the complaint, if are accepted in their entirety, and are taken at the face value, do not prima facie constitute any offence or make out a case against the accused, or where the allegations made are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient room for proceeding against the accused, the jurisdiction under Section 482 of the Cr.P.C. needs to be exercised. In the**

**..8/-**

**.8.**

**matter on hand, a blurred allegation of threat to life by the accused including the appellant is made in the complaint. However, the police after investigation did not find prima facie any case against any of the accused including the appellant for the said offence. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of oppression or harassment. As mentioned supra, the records in this matter merely reveal the allegation of cheating and criminal breach of trust on the part of the parents of the appellant. Since the appellant is not a party to the agreement or any transaction between the complainant and other accused, there is no reason as to why he should face criminal trial and that too for the offences under Sections 406, 420 IPC etc. The allegations found in the investigation records, even if are taken at the face value, do not constitute an offence alleged against the appellant. As the offence alleged is not disclosed, the**

**..9/-**

**.9.**

**appellant should be saved from frivolous criminal litigation. The admitted facts and documents relied upon by the complaint, without weighing or sifting of evidence, do not make out any case against the appellant & hence the criminal proceedings instituted against him are required to be quashed. In our view, the High Court should not have adopted rigid approach which certainly has led to miscarriage of justice in this case, particularly when the High Court has concluded that the appellant is not a party to the transaction between his parents and the complainant. The power of judicial review is discretionary but this is a case where the High Court should have exercised it.**

**7. Having regard to the material on record and the well settled principles of law mentioned supra, we do not find any ground to continue the prosecution against the appellant and, hence, the proceedings are liable to be quashed qua him. Accordingly, the criminal proceedings**

**..10/-**

**.10.**

**in Case No.898/2016 arising from FIR No.03/2016 for the offences punishable under Sections 406, 420 and 506 of the Indian Penal Code (IPC) stand quashed against the appellant.**

**8. The appeal is allowed. Pending application, if any, stands disposed of.**

.....**J.**  
**[ARUN MISHRA]**

.....**J.**  
**[MOHAN M. SHANTANAGOUDAR]**

**New Delhi;**  
**23<sup>rd</sup> October, 2017.**

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL APPEAL NO. 17306 OF 2017**  
**(Arising out of SLP(Crl.)No.7689/2016)**

**ANKUR GUPTA**

**... APPELLANT**

**VS.**

**STATE OF U.P. & ANR.**

**... RESPONDENTS**

**ORDER**

- 1. Leave granted.**
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- 3. Records reveal that the parents of the appellant, namely, Ajya Kumar Gupta and Smt. Anuradha Gupa, entered into an agreement to sell dated 14.1.1997 with**

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**4. There cannot be any dispute that the parents of the appellant on the one side and the respondent on the other entered into an agreement to sell in respect of a property, i.e., House No.18, Mohalla Peepal Tola, Rampur (U.P.); the parents of the appellant are the owners of the said property; the original agreement to sell dated 4.1.2013 was entered between only the parents of the appellant and Respondent No.2; the earnest money was allegedly paid to the parents of the appellant. It is also not in dispute that the appellant is not the owner of the property in question. He was neither a witness nor a**

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**(2000) 8 SCC 547; M/s Indian Oil Corporation vs. M/s Npc India Limited, AIR 2006 SC 2780; and Vineet Kumar**

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**8. The appeal is allowed. Pending application, if any, stands disposed of.**

**.....J.  
[ARUN MISHRA]**

**.....J.  
[MOHAN M. SHANTANAGOUDAR]**

**New Delhi;  
23<sup>rd</sup> October, 2017.**

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 (Cr1.) No(s).7689/2016

(Arising out of impugned final judgment and order dated 23-08-2016  
in APP No.24187/2016 passed by the High Court Of Judicature At  
Allahabad)

ANKUR GUPTA

Petitioner(s)

VERSUS

STATE OF U.P. &amp; ANR.

Respondent(s)

(with appln.(s) for exemption from filing O.T.)

Date : 23-10-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Pardeep Gupta,Adv.  
Mr. Parinav Gupta,Adv.  
Ms. Mansi Gupta,Adv.  
For (Mrs.) Vipin Gupta,AORFor Respondent(s) Mr. Jitendra Kumar Tripathi,Adv.  
State Mr. Samir Ali Khan,Adv.  
Mr. Andleeb Naqvi,Adv.  
  
Mr. Anoop Kumar Srivastava,Adv.  
Mr. R.N. Pareek,Adv.  
Mr. Vipin Kumar Saxena,Adv.  
Mr. Umesh Chandra Srivastava,Adv.  
  
Mr. Abhishek Chaudhary,AORUPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Sarita Purohit)  
Court master(Tapan Kumar Chakraborty)  
Branch Officer

(Signed order is placed on the file)