



2025:AHC:174401

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 44125 of 2024

Lal Bahadur And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Ambleshwar Pandey, Amrendra Singh,
Jitendra Kumar Singh, Rajkumar
Verma

Counsel for Opposite Party(s) : G.A.

Court No. - 77

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard Sri Ambleshwar Pandey, learned counsel for the applicants and learned A.G.A. for the State.

2. The present application under Section 482 Cr.P.C., has been filed for quashing the entire proceedings of Case No. 1127 of 2024 arising out of Case Crime No. 112 of 2023, Under Section 3/5 of Prevention of Damage to Public Property Act, 1984, Police Station Utraon, District Prayagraj pending in the Court of Additional Chief Judicial Magistrate, Room No. 8, Allahabad as well as the impugned cognizance order dated 13.06.2024 and chargesheet no. 1/2023 dated 05.10.2023.

3. Learned counsel for the applicants while challenging the proceeding of Case No. 1127 of 2024 arising out of Case Crime no. 112 of 2023 in pursuance to Section 3/5 of Prevention of Damage to Public Property Act, 1984 registered at Police Station Utraon, District Prayagraj, wherein information given by Village Development Officer/Village Secretary, FIR has been registered with specific allegation against the applicants that a drainage situated at plot no. 136 has been disturbed in shape of breaking the same and this information has been received over a complaint preferred at the behest of Gram Pradhan to opposite party no. 2, whereupon detailed investigation has been conducted by the concerned investigating officer and preferred chargesheet, whereupon cognizance has been taken up by learned court concerned in pursuance to Section 3/5 of Prevention of Damage to

Public Property Act, 1984.

4. Chargesheet, summoning order dated 13.06.2024 along with entire proceedings arising out of case crime no. 112 of 2023 has been put under challenge amongst various other grounds, inter alia, precisely on following grounds:-

- (i) Competence of the informant;
- (ii) Proceeding, if warranted against the applicants;
- (iii) Cognizance of offence taken up by learned court concerned;
- (iv) Entries available in the revenue records.

5. Learned counsel for the applicants, while raising his arguments, has submitted that informant being opposite party no. 2 (Village Development Officer/Village Secretary) is at all empowered to pursue the grievances, if any, pertains to Gram Pradhan arising out of disturbing the public property, specifically mentioned in the revenue records. It is also submitted by learned counsel for the applicants that the same is amenable to be considered by concerned revenue authorities over the proposal, if made by the Land Management Committee and the same may be placed through revenue authority Gram Pradhan and thereafter, it is only the revenue authorities, who are empowered to ensue the grievances, if any, after due verification in pursuance to the revenue records as per the demarcation available with them.

6. While challenging the entire proceedings, learned counsel for the applicants has submitted that there is specific provision available under Section 67 of the Revenue Code, 2006, wherein the proper procedure is available by way of issuing notices under Section 67(1) of the Revenue Code, 2006 through which the claim/objection may be called from the person, who has been alleged to be the encroacher/illegal possessor over the property or the property or the public property, if damaged by the person concerned, but in the instant matter, being the incompetent person, it is the Village Development Officer/Village Secretary, who preferred FIR, which is against all the cannons of fairness and reasonableness and the same is bad in the eyes of law.

7. Learned counsel for the applicants, while challenging the illegality, genuineness and correctness of the order dated 13.06.2024 passed by learned Court of Additional Chief Judicial Magistrate, Room No. 8, Allahabad, through which cognizance of the offence has been taken up, submitted that neither the provisions nor the competence of opposite party no. 2 has ever been considered by learned court concerned. Learned Court of Additional Chief Judicial Magistrate, Room No. 8, Allahabad has failed to consider the vital aspect that whether any specific investigation has been carried out in respect of examining the revenue records through any competent revenue authorities or not.

8. So far as entries available in the revenue records is concerned, learned counsel for the applicants sought the attention of the court over the records of rights, which has been appended as Annexure no. 8 available at page no. 69 through which it is crystal clear that plot no. 136 indeed pertains to public property in shape of pathway along with pond and as such, destruction and damaging the drainage available at plot no. 136 is not possible as per the revenue records and as such the entire matter whatsoever has been initiated against the applicants by way of putting them into unwarranted litigation is not sustainable in the eyes of law.

9. Per contra, learned AGA has submitted that there might be a possibility that drainage has been altogether available along with the pathway, which is entered into the revenue records against plot no. 136, apparent from the records of right.

10. After hearing rival submissions extended by learned counsel for the parties, the precise grounds taken up by learned counsel for the applicants is quite convincing, the informant being opposite party no. 2 was not at all entitled and having any right conferred by the statute available under the Act of 1984 as well as the Code of 2006, if in any case, any public property is being caused to be damaged or damaged in shape of encroachment possession or destruction, the same shall be ensued at the behest of the revenue authorities is only the person authorized by the competent revenue authorities. It is crystal clear that the Village Development Officer/Village Secretary does not come under the ambit of the revenue authorities.

11. So far as regarding procedure is concerned, the specific procedure has

already been defined under Section 67 of the Revenue Code and the same dictum and ratio has been held in the judgment rendered by co-ordinate Bench of this Court vide order 6.8.2020 passed in Application u/s 482 no. 9964 of 2020 (**Munshi Lal and Another vs. State of U.P. and another**).

12. In view of the aforementioned facts and circumstances, the entire proceedings of Case No. 1127 of 2024 arising out of Case Crime No. 112 of 2023, Under Section 3/5 of Prevention of Damage to Public Property Act, 1984, Police Station Utraon, District Prayagraj pending in the Court of Additional Chief Judicial Magistrate, Room No. 8, Allahabad as well as the impugned cognizance order dated 13.06.2024 and chargesheet no. 1/2023 dated 05.10.2023, are hereby **set-aside**.

13. Accordingly, the application u/s 482 Cr.P.C. is **allowed**.

(Saurabh Srivastava,J.)

September 25, 2025

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