

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

**Criminal Appeal No 295 of 2022**

(Arising out of SLP (CrI) No 7955 of 2021)

**Syed Yaseer Ibrahim**

**.... Appellant(s)**

**Versus**

**State of Uttar Pradesh & Anr**

**....Respondent(s)**

**ORDER**

1 Leave granted.

2 This appeal arises from a judgment dated 10 August 2021 of a Single Judge of the High Court of Judicature at Allahabad. The Single Judge dismissed a petition under Section 482 of the Code of Criminal Procedure 1973<sup>1</sup> filed by the appellant for quashing the charge-sheet, which was submitted on 12 February 2021, an order taking cognizance dated 8 March 2021 and the proceedings which arise out of Case Crime No 15 of 2020 for an offence punishable under Section 420 of the Indian Penal Code 1860<sup>2</sup> registered at PS Swaroop Nagar, District Kanpur Nagar.

3 The facts insofar as they are material for the disposal of these proceedings may be briefly stated:

1 “CrPC”

2 “IPC”

The appellant claims title to certain immovable property on the basis of a gift deed dated 2 January 2002. On 12 September 2008, a person by the name of Azim Wasif instituted a suit, OS No 1745 of 2008 in the Court of the Civil Judge (Senior Division), Kanpur Nagar against the appellant seeking a declaration of title and possession of the suit property. The plaintiff in that suit has founded his claim on the basis of a Will alleged to have been executed by the brother of the appellant's maternal grandfather. Initially, on 19 September 2009, the First Additional Civil Judge allowed the application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure 1908 and directed the parties to the suit to maintain *status quo* over the disputed property. On 10 September 2010, the appellant entered into an agreement to sell the property with Mohd Naeem and Nitin Gupta, which was to take effect after the disposal of the suit in favour of the appellant. On 13 October 2014, the suit was dismissed in default. On an application for restoration filed by the plaintiff on 17 October 2014, the suit was restored to file on 21 April 2016. On 24 November 2014, the appellant is alleged to have executed a sale deed in respect of the suit property which was registered on 2 January 2015. On 5 February 2020, the FIR, noted earlier, was registered by the second respondent claiming as holder of a Special Power of Attorney executed by Wasif, who had instituted the declaratory suit. The allegation in the FIR, Crime No 15 of 2020, is that in pursuance of a Power of Attorney executed by Wasif on 29 October 2018, the second respondent visited the disputed property on 24 November 2019 and found that certain work of demolition was being carried out. Insofar as the appellant is concerned, the allegation is that he has committed an offence punishable under Section 420 of the IPC. Against the three other co-accused who have been named in the FIR, there are allegations in regard to offences allegedly punishable under Sections 323, 504 and 506 of the IPC. After investigation was complete, a charge-sheet was submitted before the competent court on 12 February 2021.

- 4 On the above conspectus of facts, the appellant moved a petition under Section 482 of CrPC before the High Court of Judicature at Allahabad. The Single Judge has dismissed the petition on the ground that disputed questions of facts arise which could not be adjudicated in the proceedings under Section 482 of CrPC.
- 5 We have heard Mr Gaurav Khanna, counsel appearing on behalf of the appellant, Mr Sanjay Singh, counsel appearing on behalf of the second respondent and Mr Ankit Goel, counsel appearing on behalf of the State.
- 6 The submissions which have been urged on behalf of the appellant fall within a narrow compass. It has been urged on behalf of the appellant by Mr Gaurav Khanna that the entire dispute is of a civil nature. The charge-sheet which has been submitted before the competent court specifically contains a recital that a suit is pending before the court of the Civil Judge (Senior Division). Moreover, it has been stated therein that the issue as to whether the appellant is entitled to claim under the deed of gift would be resolved in the trial, while, on the other hand, the claim of the second respondent which is based on the Will would also have to be tested on the basis of evidence in the suit.
- 7 Mr Sanjay Singh has relied upon relevant extracts from the charge-sheet. Learned Counsel urged that the sale of the property is hit by the doctrine of *lis pendens*.
- 8 Both the FIR and the charge-sheet, which has been submitted after investigation, would leave no manner of doubt that there are rival contentions of the appellant, on the one hand, and the second respondent, who is the complainant, on the other, which form the subject of a pending suit. The contesting parties lay a claim to the immovable property, which is in dispute. The appellant founded his claim on the strength of an alleged deed of gift. On the other hand, the second respondent has claimed on the basis of a Will alleged

to have been executed in his favour. The second respondent has instituted a suit for declaration and possession which is pending. The suit was dismissed in default on 13 October 2014. The sale deed was executed by the appellant on 24 November 2014. The suit has been restored to file on 21 April 2016. Each of the rival claims would be tested in the course of the evidence adduced at the trial of the suit. Mr Sanjay Singh submitted that since the sale took place during the pendency of the suit, doctrine of *lis pendens* will apply. This itself is an indicator of the position that it is essentially a dispute of a civil nature. The execution of a sale deed, during the pendency of the suit, may attract the doctrine of *lis pendens* , but, from reading the charge-sheet as it stands, it is evident that there is no element of criminality which can stand attracted in a matter which essentially involves a civil dispute between the appellant and the second respondent.

- 9 Insofar as the appellant is concerned, none of the ingredients of the offence punishable under Section 420 of the IPC have been found to exist after the investigation was complete. Neither the FIR nor the charge-sheet contain any reference to the essential requirements underlying Section 420. In this backdrop, the continuation of the prosecution against the appellant would amount to an abuse of the process where a civil dispute is sought to be given the colour of a criminal wrong doing.
- 10 For the above reasons, we allow the appeal and set aside the impugned judgment and order of the Single Judge of the High Court of Judicature at Allahabad dated 10 August 2021. In consequence, the petition under Section 482 of CrPC will stand allowed by quashing the charge-sheet dated 12 February 2021, confined only to the appellant.

11 Pending application, if any, stands disposed of.

.....J.  
[Dr Dhananjaya Y Chandrachud]

.....J.  
[Surya Kant]

**New Delhi;  
February 28, 2022**

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ITEM NO.26                      Court 4 (Video Conferencing)                      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).7955/2021

(Arising out of impugned final judgment and order dated 10-08-2021 in A482 No. 9704/2021 passed by the High Court of Judicature at Allahabad)

SYED YASEER IBRAHIM

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ANR.

Respondent(s)

(WITH IA No. 134366/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 134367/2021 - EXEMPTION FROM FILING O.T.)

Date : 28-02-2022 This petition was called on for hearing today.

CORAM :    HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
                  HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)    Mr. Gaurav Khanna, AOR  
                                  Ms. Sadhvi Swarup, Adv.

For Respondent(s)    Mr. Ankit Goel, AOR  
                                  Ms. Vanya Gupta, Adv.  
  
                                  Mr. Sanjay Singh, Adv.  
                                  Mr. Divyesh Pratap Singh, AOR  
                                  Ms. Shivangi Singh, Adv.  
                                  Mr. Vikram Pratap Singh, Adv.  
                                  Ms. Ishita Bedi, Adv.

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

- 1        Leave granted.
- 2        The appeal is allowed in terms of the signed order.
- 3        Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)  
AR-CUM-PS

(SAROJ KUMARI GAUR)  
COURT MASTER

(Signed order is placed on the file)