

Criminal Revision  
Judgment On : 05-05-2010.  
Present: The Hon'ble Justice Ashim Kumar Roy  
*C.R.R. No. 478 of 2010*  
*Swarup Narayan Chowdhury*  
*versus*  
*The State of West Bengal & Anr.*

Points:

**Quashing:** Disputed question of fact involved in the proceeding as to ownership of the land in question - whether the court can grant quashing of the case- Code of Criminal Procedure, 1973-S.482

Facts:

Although the plot of land in question on which the Poppy Plants were found to be cultivated never belong to him still the Investigating Agency falsely implicated him in the impugned criminal case by alleging that he is the owner in respect thereof. The petitioner has moved this criminal revision for quashing of a First Information Report relating to an offence punishable under Section 18 of the N.D.P.S. Act.

Held:

Since the ownership of the plot of land in question appears to be a disputed question of facts the same cannot be gone into at this stage when the question before this Court is quashing of a FIR. Such disputed question of fact cannot be decided without trial on evidence. In the result, this criminal revision stands dismissed.

Para-3

For Petitioner : Mr. Rana Mukhopadhyay  
For State : Mr. Swapan Kumar Mullick

The Court

The petitioner has moved this criminal revision for quashing of a First Information Report relating to an offence punishable under Section 18 of the N.D.P.S. Act.

2. The Learned Counsel appearing on behalf of the petitioner vehemently contended that although the plot of land in question on which the Poppy Plants were found to be cultivated never belong to him still the Investigating Agency falsely implicated him in the impugned criminal case by alleging that he is the owner in respect thereof. In support of his contention the Learned Advocate appearing on behalf of the petitioner draws the attention of this Court to Annexure "P-1", the search report and pointed out that according to the Investigating Agency the Poppy Plants were found cultivated in Plot No. 276, situated within the Mouza Saheb Nagar, Block Tehatta – II, P.S. Tehatta, Nadia, then by drawing the attention of this Court to Annexure "P-2", the records of right he submitted the land comprised in Plot No. 276 belongs to some other persons. Accordingly, he prayed for quashing of the impugned proceedings. On the other hand, the Learned Advocate of the State produced the Case Diary and vehemently opposed the prayer for quashing. In this connection an affidavit has also been filed on behalf of the State which have been affirmed by the Block Land and Land Reforms Officer, Tehatta – II, Palasipara, District – Nadia and along with the said application a certified copy of the records of right have been filed, disputing the contention of the petitioner. In the said affidavit in paragraph 2 following averment has been made; "That in compliance with the order passed by this Hon'ble Court I checked up the records as available in the office and whereas it appears from the computer record of rights in respect of plot no. Sabek 276 corresponding to LR plot No. 331 of Mauza-Saheb Nagar, J.L. No. 18 of Block-Tehatta-II, comprising an area of 1.29 acres of land are recorded in the names of the Rayat as mentioned in the Certified copy as on 19.02.2010."

3. Since the ownership of the plot of land in question appears to be a disputed question of facts the same cannot be gone into at this stage when the question before this Court is quashing of a FIR. Such disputed question of fact cannot be decided without trial on evidence. Accordingly, I am not inclined to quash the proceedings on the ground on which same has been sought for. In the result, this criminal revision stands dismissed. Interim order, if any, stands vacated.

4. However, I make it clear I have not gone into the merits of the claim and the counter claim as regards to the ownership of the plot of land in question. It shall remain open to the petitioner to dislodge the claim of the prosecution by adducing necessary evidence at the appropriate stage of the trial. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.  
( Ashim Kumar Roy, J. )