



2026:AHC-LKO:20804

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 4278 of 2021

Arjun Srivastava

.....Applicant(s)

Versus

State of U.P and another

.....Opposite
Party(s)

Counsel for Applicant(s) : Vashu Deo Mishra, Sourabh Mishra
Counsel for Opposite Party(s) : G.A., Himanshu Tiwari, Sunita Dwivedi

Court No. - 15

HON'BLE BRIJ RAJ SINGH, J.

1. The present application has been filed seeking quashing of the entire proceedings of Criminal Complaint Case No.4800331/2016, Smt. Rajkumari Chaurasia Vs. Arjun Srivastava and others, under Sections 406, 420, 468, 471 and 506 IPC, Police Station Naka Hindola, District Lucknow and the summoning order dated 07.05.2019 passed by the Additional Chief Judicial Magistrate, Court No.32, Lucknow.

2. As per the allegation mentioned in the complaint, the applicant introduced the complainant with co-accused Ashok Kumar Rai and on the ratio of 50-50%, a builder agreement was executed in respect to her House No.76/18, Gurudwara Road, Police Station Naka Hindola, District Lucknow, total Area 2600 Sq. Ft. Thereafter, one agreement to sale dated 20.02.2009 was also executed only in respect to half of the total land i.e. in respect to 1300 Sq. Ft. (120.82 square meter). It is further stated by the complainant that thereafter co-accused Ashok Kumar Rai has got fresh builder agreement dated 22.12.2009 subsequently in respect to 50% land in his favour and in respect to 50% land in favour of Vivek Kumar Chaurasia, son of the complainant. It is further said that complainant lodged First Information Report at Police Station Naka Hindola, Lucknow, which was registered at Case Crime No.430 of 2012, under Sections 419, 420, 467, 468, 471, 445 and 406 IPC, in which after investigation police has submitted final report. Against the final report, opposite

party ho.2 has filed protest petition, which was registered at Misc. Case No.63 of 2014, but the same has been dismissed on 06.12.2014 in Lok Adalat due to non-prosecution.

3. Statement of the complainant was recorded under Section 200 Cr.P.C. on 03.02.2017, in which she has also stated that previously she has lodged First Information Report at Police Station Naka Hindola, District Lucknow at Case Crime No.430 of 2012, under Sections 419, 420, 467, 468, 471, 445 and 406 I.P.C., in which after investigation, police has submitted final report, against which she filed a protest application, which has been dismissed due to non-prosecution. Statement of Vivek Kumar Chaurasia was recorded under Section 202 Cr.P.C. and he has reiterated the allegations made in the complaint. However, in his statement he has stated that Arjun Srivastava (applicant) is a marginal witness of the agreement to sale dated 20.02.2009.

4. From the impugned summoning order, it comes out that before passing the summoning order, the learned Magistrate has summoned the map of the land in question from the Lucknow Development Authority as well the architect, Vivek Kumar Saxena, who has sketched the map, although on 05.03.2019 by filing an application for cancellation of notice dated 21.02.2019 in support of the affidavit dated 05.03.2019, Vivek Kumar Saxena has stated that he has not sketched that map and he has also denied his signature on that map, but the Magistrate has wrongly taken note of his affidavit as evidence under Section 202 Cr.P.C.

5. Co-accused Ashok Kumar Rai i.e. purchaser of the land in question, has filed Regular Suit No.376 of 2011 (New Number-122/2016), Ashok Kumar Rai Vs. Smt. Rajkumari Chaurasia for specific performance of registered agreement dated 20.02.2009 and Regular Case No.86 of 2012 (New Number 18/2015), Ashok Kumar Rai Vs. Rajkumari Chaurasia for permanent injunction. Both cases have been consolidated and tried together before the Judge, Small Causes Court, Lucknow and vide judgment and order dated 28.03.2017, both cases were decreed in favour of co-accused Ashok Kumar Rai. Opposite party no.2 has challenged the said judgment and order dated 28.03.2017 by filing Regular Civil Appeal No.55 of

2017, Smt. Rajkumari Chaurasia Vs. Ashok Kumar Rai, before the District Judge, Lucknow as well as First Appeal No.115 of 2017, Rajkumari Chaurasia and others Vs. Ashok Kumar Rai, before this Court. It is said that Regular Suit No.55 of 2017, Rajkumari Chaurasia Vs. Ashok Kumar Rai has been dismissed by the appellate court vide order dated 28.02.2023. However, First Appeal No.115 of 2017, Rajkumari Chaurasia and others Vs. Ashok Kumar Rai filed before this Court, is pending.

6. Counsel for the applicant submits that after passing the order dated 28.02.2023 in appeal, in execution proceedings, the Court passed an order for execution of the sale deed and the sale deed has been executed by Mr. Praveen Kumar Tyagi, PCS(J) vide order dated 31.07.2025. The court has noted the said fact in its order dated 05.08.2025 that the sale deed has been executed on 31.07.2025. The order dated 05.08.2025 passed by the trial court is taken on record.

7. Counsel for the applicant further submits that applicant is a marginal witness and he has not committed any fraud, rather property in dispute has been executed by way of sale deed and a sale consideration of Rs.10,00,000/- was also given by co-accused Ashok Kumar Rai to opposite party no.2. He also submits that once the sale deed has been executed by the order of court in favour of Ashok Kumar Rai, it cannot be presumed that applicant had committed any fraud. Even if there is any allegation of forgery in preparation of map, due care will be taken by the competent authority i.e. Prescribed Authority, Lucknow Development Authority. He, therefore, submits that proceedings against the applicant are nothing but a sheer abuse of process of law.

8. On the other hand, counsel for opposite party no.2 has submitted that Smt. Rajkumari Chaurasia also filed First Appeal No.115 of 2017 before this Court, which is pending. He has further submitted that the trial court after conducting a proper inquiry under Section 202 Cr.P.C. in relation to the forged map and after calling upon responsible authorities of Lucknow Development Authority and architect concerned in the court, has passed the summoning order and initiated proceedings against the applicant, therefore, this Court cannot be quashed the proceedings. It is further submitted that a bare

perusal of the statements recorded under Section 200 and 202 Cr.P.C. indicate that *prima facie* case is made out against the applicant and that is why summons have been issued against the applicant, therefore, there is no illegality or infirmity in it.

9. Heard learned counsel for the parties and perused the record.

10. After going through the record, this Court finds that the subject matter of the disputed land has been adjudicated by the civil court as well as by the first appellate court and it has been found that co-accused Ashok Kumar Rai is entitled for the aforesaid land, that is why the Court passed an order for execution of the sale deed in his favour. The sale deed was executed in the execution proceedings by the Court and the presumption goes that Ashok Kumar Rai is the original owner of the land in question and having his title.

11. This Court cannot lost its sight on the given fact that opposite party no.2 has lost her case before the civil court and she is unable to prove her title before the civil court and the land has been executed by way of sale deed by the order of the Court in favour of co-accused Ashok Kumar Rai. Since the applicant is a marginal witness and he has nothing to do with the land in question coupled with the fact that the land in question has been executed by way of sale deed by the order of the court in favour of co-accused Ashok Kumar Rai, continuance of the present proceedings against the applicant are nothing but an abuse of process of law and they deserve to be quashed.

12. Application is accordingly ***allowed*** and the entire proceedings of Criminal Complaint Case No.4800331/2016, Smt. Rajkumari Chaurasia Vs. Arjun Srivastava and others, under Sections 406, 420, 468, 471 and 506 IPC, Police Station Naka Hindola, District Lucknow and the summoning order dated 07.05.2019 passed by the Additional Chief Judicial Magistrate, Court No.32, Lucknow, are hereby quashed *qua* the applicant.

(Brij Raj Singh,J.)

March 23, 2026

Rao/-