

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

CRIMINAL APPEAL NO.2452 OF 2009

MOHD.KHALID KHAN ... APPELLANT(S)

VS.

STATE OF U.P. & ANR. ... RESPONDENT(S)

WITH

CRIMINAL APPEAL NO.2453/2009

J U D G M E N T

Being aggrieved by the common order dated 25th July, 2007, passed by the High Court of Judicature at Allahabad, Lucknow Bench at Lucknow, in Criminal Miscellaneous Case Nos.462/2007 and 390/2007, the appellants have filed these appeals challenging the validity of the said order. By virtue of the impugned order, the applications filed by the appellants under Section 482 of the Criminal Procedure Code had been dismissed by the High Court.

We have heard the learned counsel for the parties at length and upon hearing them, we find that a Suit and a First Appeal are pending on the subject matter of the present litigation and the issue with regard to ownership

of the land in question is yet to be finalised in the said Suit and in the First Appeal.

In the circumstances, we would not like to pass any observation which might adversely affect any of the parties in pending civil litigation.

Suffice it to say at this stage that while rejecting the applications filed under Section 482 Cr.P.C., the High Court had considered certain facts which *prima facie* might not be correct. Some observations with regard to the oral gift (Hiba) have been made which, according to us, are not correct, as we do not find the same in the sale deed which had been executed in favour of the present appellants.

Looking at the aforesaid facts, we are of the view that at this stage no case has been made out against the present appellants for initiating any criminal proceedings. Therefore, we set aside the impugned order so far as the present appellants are concerned and quash the process issued against them and also the charge-sheet filed against the present appellants in pursuance of First Information Report No.332 of 2005 dated 31st October, 2005 lodged at Police Station, Wazirganj, District Lucknow.

The appeals are allowed.

The original record is to be returned to the trial court forthwith.

.....J.
[ANIL R. DAVE]

.....J.
[AMITAVA ROY]

New Delhi;
6th August, 2015.



JUDGMENT