

Nathi Rai and Others

Vs

State of Uttar Pradesh and Others

Criminal Appeal No. 175 of 1981

(A.C. Gupta, Baharul Islam JJ)

23.02.1981

JUDGMENT

1. This is an appeal against an order of the Allahabad High Court refusing to quash a criminal proceeding based on a complaint filed against the appellants and several other persons alleging offences punishable under Sections 109, 448 and 120-B of the Indian Penal Code.

2. The facts alleged in the complaint occurred about six and a half years before it was filed. These facts were the basis of an ejectment suit that the complainant's wife had instituted against the appellants and others who were her tenants in respect of the first floor of a house in Kanpur. The suit was dismissed by the trial court. The appeal taken by the landlady was also dismissed. The High Court summarily dismissed the second appeal and this Court dismissed the special leave petition against the decision of the High Court. After the suit was lost all the way, the complaint out of which this appeal arises was filed. It appears that none of the appellants has been named as accused in the complaint. In fact, there is no allegation against the appellants in the complaint. The proceeding against the appellants seems to be an abuse of the process of the court. We, therefore, allow the appeal and quash the proceeding (Case 242 of 1974 : Sri Niwas v. Chiranjilal) pending in the Court of Second Additional Munsif Magistrate, Shishamau, insofar as it is directed against the appellants.

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