

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 837 of 2015

Sanjay Sahu S/o Dayaram Sahu Aged About 36 Years R/o Chakradharnagar,
Kaserpara, Raigarh, P.S. - Chakradhar Nagar, Tahsil, Civil & Revenue District -
Raigarh (Chhattisgarh).

----Applicant

Versus

1. Daulat Ram @ Dayaram S/o Late Rewachand Aged About 42 Years R/o Sindhi Colony, Kachchi Kholi, Chakradharnagar Raigarh, P.S. - Chakradhar Nagar, Tahsil & District - Raigarh (Chhattisgarh).
2. Vijay Kumar S/o Mohanlal Aged About 26 Years R/o Sindhi Colony, Kachchi Kholi, Chakradharnagar Raigarh, P.S. - Chakradhar Nagar, Tahsil & District - Raigarh (Chhattisgarh).
3. Lalit Kumar S/o Late Mohanlal Aged About 25 Years R/o Sindhi Colony, Kachchi Kholi, Chakradharnagar Raigarh, P.S. - Chakradhar Nagar, Tahsil & District - Raigarh (Chhattisgarh).
4. Kaushilya Devi Wd/o Late Mohanlal Aged About 46 Years R/o Sindhi Colony, Kachchi Kholi, Chakradharnagar Raigarh, P.S. - Chakradhar Nagar, Tahsil & District - Raigarh (Chhattisgarh).
5. Ashish @ Manish Kumar S/o Late Thakurram Aged About 24 Years R/o Sindhi Colony, Kachchi Kholi, Chakradharnagar Raigarh, P.S. - Chakradhar Nagar, Tahsil & District - Raigarh (Chhattisgarh).
6. State Of Chhattisgarh Through : S.H.O. Police Station - Chakradhar Nagar, District Raigarh (Chhattisgarh).

---- Respondents

Smt. Indira Tripathi, Advocate for the applicant.
Shri Vinod Tekam, Panel Lawyer for the State.
Ms. Anita Suryawanshi, Advocate appears under instruction from Mr. Y.C. Sharma, Advocate for respondent No.2/ complainant.
None for respondent No.1 & 3 though served.
Respondent No.4 is reported dead.

Order On Board

28/09/2015

Learned counsel for respondent No.2 prays for time to file memo of appearance.

This Court permits learned counsel to represent respondent No.2 even without filing any memo.

Heard.

1. The applicant is apprehending his arrest in connection with Complaint Case No.250/2014 registered at Police Station- Chakradhar Nagar, District Raigarh (C.G.) for alleged commission of offence under Section 420,419, 467, 468, 471/34 of IPC.

2. Case of the complainants in their complaint is that though the complainants had not given their No Objection for sale of joint family property, the applicant sold the joint family property by submitting forged 'No Objection' letters of the complainants before the Magistrate.

3. Learned counsel for the applicant submits that the applicant and complainants are members of one family and they all are joint holders. He submits that the allegation that No Objection Certificates given contains forged signature is prima facie not made out because during the pendency of the criminal case, three complainants namely Kaushilya Devi, Vijay Rajput and Lalit Kumar filed affidavits before the Magistrate stating that they had given their No Objection and they are not willing to prosecute their complaint. However, later on, again they have changed their stand making allegation that coercion was practiced upon them to secure such affidavits. He submits that changing stand which is being taken by the complainants renders the entire allegation doubtful and the dispute is of civil nature and civil suit is also pending before the Magistrate.

4. On the other hand, learned counsel for the complainants submits that all the complainants have very clearly stated in their complaint and also in the preliminary statement recorded by the Magistrate that they had never signed any No Objection paper in favour of the applicant and signatures on the document are forged. He further submits that some of the complainants had filed affidavit because the applicant is the elder member of the family and under the coercion of the applicant, they had to submit their affidavit so that dispute be brought to an end. Later on, this fact has also been stated before the Magistrate that the affidavit was executed under the coercion of the applicant.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the applicant and complainants are related to each other and all of them are joint holders of the land, which is alleged to have been sold by the applicant and further taking into consideration that before the Magistrate some of the complainants have at one point of time filed affidavit stating that they had given their No Objection for the sale of the land falling to their share also, the application is allowed.

6. It is directed that if the applicant appear before the Magistrate within a period of one month from today, he shall be released on bail on furnishing a personal bond of Rs.25,000/- with one local surety for the like amount to the satisfaction of the Magistrate for his appearance before the concerned Magistrate on such further dates as may be directed, unless exempted from appearance.

7. Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava

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