

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P No. 797 of 2015

1. Sanjay Lata, S/O. Hari Prasad Lata, Aged About 32 Years, R/O. Ward No.1, Main Raod Ambagarh Chouki, District - Rajnandgaon (Chhattisgarh).

---- Petitioner

Versus

1. Smt. Pushpa Jain, W/O. Keshri Chand Jain, Aged About 48 Years, R/O. Bhanupratappur, District - Kanker (Chhattisgarh), Present Address - Near Chandra Computers, Dena Bank, Sandeep Traders, Ambagarh Chouki, District Rajnandgaon (Chhattisgarh)..
2. Anandi Ram Rawte, S/O. Panchu Ram Rawte, Aged About 45 Years, Patwari Halka No. 12, Ambagarh Chouki, District - Rajnandgaon (Chhattisgarh).

---- Respondents

For Petitioner : Mr. Anup Mazumdar, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

08/09/2015

1. Challenge in this petition is to the order dated 12.06.2015, passed by the Sessions Judge, Rajnandgaon, passed in Criminal Revision No.07/2015 and 08/2015, whereby the learned Sessions Judge has set-aside the order of registration of offence under Section 420, 467, 471, 120B of I.P.C. dated 10.02.2015, passed in Criminal Case No.82/2015, by the Judicial Magistrate First Class, Ambagarh Chowki.
2. Learned counsel for the petitioner would submit that on conspiracy with the Patwari, the purchaser has acquired the land more than the purchase made. The complaint having been filed before the J.M.F.C., the same was registered as Criminal Case No.82/2015, which was

subject of challenge before the Revisional Court. The Revisional Court after due consideration quashed the complaint, against that the petitioner has preferred this petition.

3. Learned counsel for the petitioner would submit that seller has sold out the property more than her holding after having conspired with Patwari of the area, therefore, clearly the case would be made for fabrication and forgery.
4. Perusal of the order alongwith the petition would go to show that as per the facts, the respondent No.1, Smt. Pushpa Jain had purchased the disputed land through registered sale deed from Smt. Bibban Begam on 29.12.2011 and Smt. Bibban Begam had purchased the same land from Smt. Manju Devi and others on 31.12.2007. The learned Revisional Court had relied on the report sent by the S.D.O.P., Ambagarh Chowki, wherein it was stated that Patwari has mentioned in the map that subject land was possessed by Smt. Bibban Begam. Perusal of the order would show that in respect of the same land, a civil suit was filed, wherein application for temporary injunction has been rejected vide order dated 03.05.2014 by the Court of Civil Judge Class-I, Ambagarh Chowki. After rejection of the application for temporary injunction, the complaint was filed on 26.08.2014, therefore, admittedly in respect of the same land and area, the civil suit is pending. The Court has further referred to the statement of Ramgopal Sharma, complainant witness No.3, who is the uncle of the complainant. It is stated that Manju Lata had sold the land to Smt. Pushpa Jain. About the area, the witness has not stated anything. The Court after going through the statements of Sanjay Lata and Jagdish Singh Bhatia has recorded that the statements are so vague to cover

the ingredients of offences alleged in the complaint.

5. Hon'ble Supreme Court in case law reported in **(2014) 10 SCC 663** in between **Binod Kumar and others Vs. State of Bihar and another** at para 10 has laid down the principles which are reproduced herein below:-

“10. In *Indian Oil Corpn. v. NEPC India Ltd.* (2006) 6 SCC 736, this Court has summarised the principles relating to exercise of jurisdiction under Section 482 CrPC to quash complaints and criminal proceedings as under: (SCC pp. 747-48, para 12)

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—*Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* (1988) 1 SCC 692, *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335, *Rupan Deol Bajaj v. Kanwar Pal Singh Gill* (1995) 6 SCC 194, *CBI v. Duncans Agro Industries Ltd.* (1996) 5 SCC 591, *State of Bihar v. Rajendra Agrawalla* (1996) 8 SCC 164, *Rajesh Bajaj v. State (NCT of Delhi)* (1999) 3 SCC 259, *Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd.* (2000) 3 SCC 269, *Hridaya Ranjan Prasad Verma v. State of Bihar* (2000) 4 SCC 168, *M. Krishnan v. Vijay Singh* (2001) 8 SCC 645 and *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque* (2005) 1 SCC 122. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of

contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.”

6. It is settled proposition of law that the Court must ensure that criminal prosecution can not be used as a arm twisting method to redress the civil dispute and tried the person to a core. Considering the facts of this case and the perusal of the documents I am of the opinion that the order passed by the learned Sessions Judge can not be faulted with as it does not suffer with any jurisdictional error. Therefore, by application of such principles in the instant case and reading of the document would show that no case is made out to invoke the jurisdiction of this Court under Section 482 of Cr.P.C.
7. Consequently, the petition has no merit and accordingly it is dismissed at admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge