

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1138 of 2015**

Surendra Singh Keshariya S/o Ramkhilawan Singh Keshariya Aged About 58 Years R/o - Hotel Anjali Building Phool Chowk, Thana - Golbazar, Raipur, Tahsil & District Raipur Chhattisgarh

---- **Petitioner**

Versus

1. Nishant Mahobiya S/o Late Shri Munnalal Mahobiya Aged About 28 Years R/o Sonarpara, Shitala Mandir Road, Rajnandgaon, Thasil & District Rajnandgaon Chhattisgarh
2. Vikes Soni S/o Shri Ramesh Chand Soni Aged About 32 Years R/o Diwanpara, Rajnandgaon, District Rajnandgaon Chhattisgarh
3. Deepak Shrivastava S/o Madan Lal Aged About 33 Years R/o - Sonarpara, Rajnandgaon, Tahsil & District Rajnandgaon Chhattisgarh

---- **Respondents**

For petitioner– Shri Vinay Pandey, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

15/12/2015

1. Instant petition is against the order dated 3rd November, 2015 passed in Criminal Revision No.18/2014 whereby order passed by the JMFC on 17/02/2014 has been dismissed. The complaint pertains to the petition under Section 420, 467, 468, 471 and 120-B of IPC which was filed by the petitioner Surendra Singh Keshariya. As per petitioner a will was executed by Jitendra Singh Keshariya in favour of the petitioner. Subsequently, it is stated that Nishant Mahobiya the respondent No.1 and the other respondents on the basis of forged will claiming property to be their own for which it lead to dispute before the revenue court and revenue proceedings are under challenge. Subsequently, civil suit has been filed

by the petitioner that the will which is executed in favour of the Nishant Mahobiya by late Jitendra Singh Keshariya is forged.

2. Learned counsel for the petitioner submits that petitioner has placed enough documents to show prima facie will was forged and therefore complaint which was filed ought to have been registered and dismissal of it at the threshold defeats right of the petitioner.

3. I have perused the document and the order. Perusal of the order would show that with respect to the will which is claimed to be forged a civil suit has been filed by the petitioner. Therefore, necessarily authenticity of the will is pending adjudication before the civil court of competent jurisdiction. If at the same time criminal case is registered then necessarily it will have the effect of the finding on the civil court. When the civil court is in the seisin of the matter then it will not be proper at the same time to invoke criminal jurisdiction of the court.

4. Consequently, order passed by both the court below I do not find any material irregularity or jurisdictional error. Consequently, this court is not inclined to invoke its extra ordinary jurisdiction vested in it under Section 482 of Cr.P.C.

5. Accordingly, the Cr.M.P. is dismissed.

Sd/-
(Goutam Bhaduri)
JUDGE