

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 823 of 2015**

Mustaque Ahmed S/o Late Basheer Ahmed Aged About 48 Years R/o
Plot No. 10, Ayappa Nagar, Thana - Supela, Bhilai, Civil And Revenue
Distt. Durg Chhattisgarh.

---- Appellant**Versus**

1. N. R. Mishra S/o Sri Gauri Shankar Mishra Aged About 44 Years
(The Then Branch Manager Of Canara Bank, Sector-6, Bhilai Branch)
Thru The Branch Manager, Canara Bank Sector-6, Thana - Kotwali,
Sector-6, Bhilai, Distt. Durg Chhattisgarh.
2. M.D. Buchunde Present Branch Manager, Canara Bank Sector - 6,
Thana Kotwali, Sector - 6, Bhilai Distt. Durg Chhattisgarh.
3. Pankaj Kumar Gupta S/o Sri Parmanand Gupta Aged About 42
Years (Manager As On 08/08/2010 At Canara Bank, Sector-6, Bhilai)
Thru The Branch Manager Canara Bank Sector - 6, Thana - Kotwali
Sector-6, Thana - Kotwali Sector-6, Bhilai, Distt. Durg Chhattisgarh.
4. State Of Chhattisgarh Through The District Magistrate Durg, Distt.
Durg Chhattisgarh.

---- Respondents

For Petitioner – Shri Sunil Sahu, Advocate.
For Respondent/State – Smt. M. Asha, PL.

Hon'ble Shri Justice Goutam Bhaduri**Order****15/09/2015**

1. Challenge in this petition is to the order dated 8/08/2014 passed in Criminal Revision No.229/2013. By such order, order passed by the JMFC Durg on 2/09/2013 was affirmed. The petitioner has preferred a complaint under Section 191, 192, 193, 196, 197, 199, 200, 420, 467, 468, 469, 470 and 471 of IPC against the respondents No.1 to 3 with the averments that complainant and his father were partner in M/s Taj and Company which obtained a loan from Canara Bank, Bhilai in the year 2002 to the extent of Rs.25 lakhs. Subsequently due to the fire broke out in the godown and the entire stocks were destroyed and eventually petitioner defaulted to make payment of loan. It was stated that father of the complainant/petitioner was paralyzed before 8/08/2006 and could not have acknowledged the debt. The bank thereafter filed a suit for recovery before Debt Recovery

Tribunal wherein a document of acknowledgement of debt dated 8/08/2006 was used by the bank but on that date father of the petitioner was paralyzed and was not in capacity to sign, therefore on the basis of the forged document case proceeded before the Debt Recovery Tribunal.

2. Perusal of the order shows that a decree was passed by the Debt Recovery Tribunal on the basis of document placed before it which included acknowledgement of debt dated 8/08/2006 which had signature of father of the petitioner. Decree was passed in favour of the bank. Order would show that there is no efforts were taken out by the petitioner against the decree which was passed by the Debt Recovery Tribunal on the ground that on fabricated document decree has been obtained. Instead of challenging the decree in the higher forum i.e. the appellate court a complaint has been filed after five years. Therefore, the court has recorded finding that it cannot be held that merely because father of the petitioner was ailing he could not have signed document dated 8/08/2006. Consequently, when such document was acted upon by judicial forum simply because a complaint has been filed on the ground that father of the petitioner was paralyzed and was not able to sign the acknowledgement could not be accepted. Decree if any should have been challenged before the higher appellate forum available to the petitioner on the DRT raising grounds. Separate complaint cannot be entertained after lapse of five years.

3. Consequently, petition has no force and I am not inclined to exercise jurisdiction of this court under section 482 of Cr.P.C. In a result, petition has no merit and it is dismissed accordingly.

Sd/-
(Goutam Bhaduri)
JUDGE