

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Criminal Misc. Petition No. 790 of 2016**

Dinesh Kumar Tiwari S/o Late Yogeshwar Prasad Tiwari Aged About 63 Years Retired Tahsildar, R/o Geetanjali Phase - 2, Sarkanda, Tahsil & District - Bilaspur Chhattisgarh

**---- Petitioner**

**Versus**

1. D.P. Thakur Inspector, The Then Posted As Station House Officer, Police Station - Kusmunda, District - Korba Chhattisgarh
2. State Of Chhattisgarh Through Collector, Korba, District - Korba Chhattisgarh

**----- Respondents**

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For Petitioner:  
For State:

Shri Goutam Khetrapal, Advocate.  
Shri B. Gopa Kumar, Dy. Advocate General

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**SB: Hon'ble Shri Justice P.Sam Koshy**

**Order On Board**

**29/07/2016**

1. The instant CrMP has been filed challenging the impugned order dated 10.05.2016 passed by Additional Sessions Judge, Katghora, District – Korba in Criminal Revision No. 84/2015. Vide the said impugned order the Revisional Court upholding the order passed by the JMFC Katghora rejecting the complaint lodged by the Petitioner against Respondent No.1.
2. The facts relevant for the adjudication of the present CrMP is that an FIR was registered at Police station Kusmunda, District – Korba by one Mangal Das against main accused Samar Das vide Criminal No.452/99 alleging that Samar Das in a conspiracy along with the one Patwari of the said village Atibal Das Diwan has been able to fabricate certain documents in respect of the certain land of which Mangal Das was the owner and the said Samar Das on the basis of this fake document obtained employment with S.E.C.L. After investigation it is said that Respondent No. 1, the Station House Officer, Police Station,

Kusmunda had filed charge sheet in which the name of the Petitioner also was reflected as one of the accused persons. Subsequently, the State Government vide order dated 30.06.2014 passed an order on finding that there was no involvement of the present Petitioner, ordered for closure of the said case which was duly accepted also. Then when the closure report was being filed it was mentioned that there was no allegation against the present Petitioner. That the Petitioner, since Respondent No.1 deliberately, intentionally and with malafides had implicated his name in above cited case and because of the criminal case pending against him he lost a chance of promotion, therefore lodged an FIR against Respondent No. 1. That later on he filed a complaint case under Section 200 of CrPC before JMFC Katghora and before registration of the complaint the statement of the Petitioner was also recorded. However, vide order dated 14.09.2015 the Trial Court dismissed the complaint of the Petitioner on the ground that on the basis of the statement of the Petitioner the offence under Sections 420, 467, 468, 471 and 120B IPC are not attracted. The Petitioner aggrieved of the order dated 14.09.2015 i.e. rejection of the complaint case, preferred a revision before the Revisional Court i.e. Additional Sessions Judge, Katghora which was registered as Criminal Revision No. 84/2015. After hearing the Petitioner the Revisional Court also vide the impugned order dated 10.05.2016 held that the Trial Court has not committed any illegality or infirmity while rejecting the complaint. The Revisional Court also found that the ingredients required for constituting offence under Sectiond 420, 467, 468, 471 and 120B of the IPC are not reflected from the complaint or from the statement of the complainant and rejected the Revision Petition leading to the filing of the present CrMP under Section 482 of the CrPC.

3. Learned Counsel for the Petitioner submits that the two courts below have failed to appreciate the fact that the Petitioner had brought out specific details of the offence in his complaint case as well as in his statement recorded at the time before registration of the complaint. The Court below has not appreciated the averments made in the statement as well as the complaint nor has the Court below applied its mind in its appropriate perspective. According

to learned Counsel for the Petitioner the Court below failed to appreciate the fact that Respondent No. 1 in fact had with malafide intention fraudulently implicated the Petitioner in the said case on account of which the Petitioner had suffered a loss of promotion pending the Criminal Case against him. Learned Counsel for the Petitioner relied upon two decisions of the Supreme Court in case of **Parkash Singh Badal and Another Vs State of Punjab and Others**<sup>1</sup> and **Raj Kishor Roy Vs Kamleshwar Pandey and Another**<sup>2</sup>.

4. Having considered the submissions put forth by learned Counsel for the Petitioner and on perusal of the record particularly the orders passed by the two Court below and also considering the nature of the complaint leveled by the Petitioner in his complaint what clearly is reflected is the fact that the Petitioner was more aggrieved of the act on the part of the Petitioner being falsely implicated by Respondent No.1 in a Criminal Case. Though, the Case itself has subsequently been closed. The Petitioner seems to be more aggrieved on the ground of him being falsely implicated in the said Criminal Case. Thus, has filed the complaint case against Respondent No.1. A plain perusal of the complaint would clearly reflect that the grievance of the Petitioner was more in the nature of vengeance and revengeful attitude and that in the complaint there was no ingredients what so ever required for constituting offence under Sections 420, 467, 468, 471 and 120B IPC. Only on account of the Petitioner being falsely implicated in a Criminal Case by itself would not fall within the ambit of cheating or fraud as there are other ingredients required for making out a case of cheating and fraud. Further the judgment cited by learned Counsel for the Petitioner also would not be of any assistance to the Petitioner in the factual background of this case, for the reason that those judgments have been passed in entirely different factual and conceptual background, which can not be applied in the instant case as facts of the present case. In the opinion of this Court there is no illegality or infirmity committed by the two courts below while holding that the ingredients required for making out an offence under Sections

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1 (2007) 1 SCC 1

2 (2002) 6 SCC 543

420, 467, 468, 471 and 120B IPC are missing.

5. Thus, the present CrMP being devoid of merit, the same deserves to be and is accordingly dismissed.

Sd/-

**(P. Sam Koshy)**  
**JUDGE**

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