

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 190 OF 2016

- Vikas Kumar Agrawal S/o Shanker Lal Agrawal, Aged About 28 Years, R/o Pendra, Post, P.S. & Tehsil - Pendra, Revenue & Civil District - Bilaspur Chhattisgarh

... Petitioner

Versus

1. State of Chhattisgarh, Through, Secretary, Department of Home Affairs, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District - Raipur Chhattisgarh
2. Station House Officer, Police Station - Pendra, Revenue & Civil District - Bilaspur Chhattisgarh
3. Pritam Das Darkesh S/o Rohit Das Darkesh, Aged About 28 Years, R/o Vill. - Murmur, Post - Kodgar, P.S. & Tehsil - Pendra, Revenue & Civil District - Bilaspur Chhattisgarh (Complainant)

... Respondents

For Petitioner	:	Mr. Vikram Dixit, Advocate, on behalf of Mr. Surfaraz Khan, Advocate.
For Respondents No.1 & 2	:	Mr. Bhaskar Payashi, Panel Lawyer.
For Respondent No.3	:	Mr. D.P. Mishra, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/10/2016

1. By way of the present petition under Section 482 of CrPC, the Petitioner seeks to assail the registration of an FIR by Police Station Pendra, District Bilaspur against the Petitioner for the offence punishable under Sections 3 and 4 of the Karja Act as well as under Section 384 of IPC.
2. Counsel for the Petitioner assailing the registration of the complaint submits that the entire action on the part of the Complainant-Respondent No.3 is a malafide act as is evidence from the fact that there was an agreement between the parties in respect of sale of a tractor and wherein certain amount of money was taken as loan by the Respondent No.3 and against the discharge of it he had given a cheque in favour of the Petitioner on 3.12.2015. According to the Petitioner, as per the agreement between

the parties the said cheque was later on deposited for realisation but the same got dishonoured on account of the signature not tallying and also on account of insufficient funds. Subsequently, a legal notice was issued on 19.1.2016 and a complaint, Annexure P-5, was also lodged before the Police Station Pendra on 19.1.2016 itself. Countering the lodging of the said complaint, the Respondent No.3 subsequently with a malafide intention has filed a fresh complaint alleging fraud to have been played by the Petitioner against Respondent No.3 and it is the said complaint filed by the Respondent No.3 upon which the impugned FIR has been lodged against the Petitioner on 23.1.2016

3. Counsel for the Petitioner seeks for quashment of the impugned FIR on the ground that the malafide on the part of Respondent No.3 is writ large from his conduct as also from the documents enclosed along with the petition so far as the cheque issued by Respondent No.3 and the same getting dishonoured and then the legal proceeding initiated by the Petitioner on the said dishonouring of cheque. Thus, prayed for the quashment of the impugned FIR.

4. Counsel for the State however opposing the petition submits that the petition is too premature at this juncture to be interfered with. According to the State Counsel, the matter is still at investigation stage. Charge-sheet has not been filed and from the whatever investigation till now has been done it reflects that it is not just one cheque which has been issued by Respondent No.3 to the Petitioner but the entire cheque book duly signed by Respondent No.3 was with the Petitioner and the amount entered in those cheque leaves were far more than what was agreed upon between the parties which the Respondent No.3 owed to repay the Petitioner. State Counsel further submits that the entire cheque book signed by the Respondent No.2 was for illegal use by the Petitioner. Thus, as of now there

are some *prima facie* materials available against the Petitioner and therefore the petition deserves to be rejected.

5. Counsel for Respondent No.3 adopts the arguments put forth by the Counsel for the State.

6. Considering the total facts and circumstances of the case more particularly taking into consideration the submissions of the State Counsel that the investigation is still going on and the charge-sheet has not been filed and *prima facie* some materials have been found in the course of investigation against the Petitioner, no strong case has been made out by the Petitioner calling for interference with the FIR so registered against the Petitioner.

7. The petition thus deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge