

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 399 OF 2016

Dr. P. K. Biswas S/o S.K. Biswas, Aged About 50 Years R/o Gaiyatri Nagar, Near Rajgamar Bridge, Post And Tahsil Korba, District Korba, Chhattisgarh.

---- Applicant

Versus

Smt. Hirundiya Bai W/o Late Dheer Sai, Aged About 61 Years R/o Rajgamar Rawan Bhatta, Post Rajgamar, Police Sub Station - Rajgamar, Police Station Balko Nagar, Tahsil And Distt. Korba, Chhattisgarh.

... Non-applicants

For Applicant : Shri Ashutosh Shukla, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/08/2016

1. The present petition has been preferred against the order dated 05.10.2015 passed by the Chief Judicial Magistrate, Korba, in unregistered complaint whereby the court below has ordered for registration of the complaint filed by the respondent-complainant and ordered for issuance of summons against the petitioner.
2. The present petitioner having appeared before the court, has been released on bail. The petitioner has challenged the order impugned on the ground that the complainant has suppressed the material facts from the notice of the court below, inasmuch as, the complainant had raised complaint in this regard before the Collector, Korba and he had also filed a complaint case before the District

Consumer Forum as well as had also approached the State Consumer Redressal Appellate Forum. In all the stages, the complainant has been unsuccessful and when she has been unsuccessful in all the forums, she has filed a criminal case against the petitioner, in which, the court below in a mechanical manner has ordered for registration of the said complaint wherein the offence alleged against the petitioner to have been committed is one under Sections 269,270,273,274,275,276,294 and 506-A IPC.

3. Learned counsel appearing for the petitioner submits that there is no case whatsoever made out from the plain reading of the complaint itself and the fact that no case is made out is also reflected from the order passed by the Collector, Korba after inquiry conducted at the behest of the Collector. Further, case is also not established on account of fact that the respondent has approached the District Consumer Forum as well as the State Consumer Redressal Forum and in both the forums the respondent has been unsuccessful. These facts have been deliberately suppressed by the respondent-complainant from the court below at the time of registration of the complaint. The complainant has also not disclosed these facts either in her complaint or in her statement before the court below.
4. It has been informed by the counsel for the petitioner that the matter in the court below is fixed for arguments before framing of charge. Therefore, without entering into the merits of the case, this court is of the opinion that it would not be appropriate for this court to enter into the arena of submissions made by the counsel for the petitioner

particularly for the reason that the charge in the instant case has not yet been framed. The petitioner has all the opportunity open to him under the provisions of the Code of Criminal Procedure to apprise these facts to the court below which the court below can certainly take note of at the time of framing of charge.

5. In view of the said reason that the petitioner can bring all these facts to the notice of the court below, without entering into the merits of the case, this petition is disposed of with a direction to the petitioner that if he so chooses, he may bring all these facts to the notice of the court below, who, in turn, shall consider the same at the time of framing of charge.
6. With the aforesaid direction, the petition stands finally disposed of.

Sd/-
(P. Sam Koshy)
Judge