

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 596 of 2016**

1. Bajrang @ Rajendra Prasad Tiwari S/o Late Shri Hajari Lal Aged About 52 Years R/o Near Telephone Exchange Janjgir, Police Station & Tahsil - Janjgir, Civil And Rev. Distt. Janjgir Champa Chhattisgarh.
2. Smt. Annapurna W/o Shri Bajrang @ Rajendra Prasad Tiwari Aged About 50 Years R/o Near Telephone Exchange Janjgir, Police Station & Tahsil - Janjgir, Civil And Rev. Distt. Janjgir Champa Chhattisgarh.

---- Petitioners

Versus

Vikas Tripathi S/o Shri B.S. Tripathi Aged About 28 Years B.T.I. Chawk Janjgir, Police Station & Tahsil Janjgir, Civil And Revenue Distt. Janjgir Champa Chhattisgarh.

---- Respondent

For Petitioners:

Mr. Paras Mani Shriwas, Advocate

For Respondent :

None.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14.06.2016**

1. Present is a case where the challenge is to the Order passed by 1st Additional Session Judge, Janjgir, District – Janjgir-Champa (C.G.) in Criminal Revisional No. 16/2016 dated 22.04.2016.
2. Vide the said impugned order learned Revisional Court has set aside the order passed by the Chief Judicial Magistrate dated 26.12.2015 rejecting the compliant case preferred by the Respondent for initiating case against the present Petitioners under Section 420 of

the I.P.C. for having cheated them.

3. According to the Petitioners the complaint lodged by the Respondent was that the present Petitioners, on the garb of providing an employment to the Respondent had obtained an amount of Rs. 2 Lakhs from the old mother of the Respondent. However, subsequently they could not provide with any employment nor did they return the money back taken from the Respondent. When the Respondent approached them they refused repayment of the money to him and also misbehaved which led to the filing of the complaint.

4. The Chief Judicial Magistrate initially vide order dated 26.12.2015 had rejected the complaint on the ground that since it was a case based on an agreement between the parties and that the witnesses who have been examined, the said agreement does not contain signature of the independent witnesses nor was certified by a notary and also considering the nature of the allegation, to be more of a nature of civil dispute.

5. Against the said order dated 26.12.2015 the Respondent has preferred a Revision Petition before the Additional Sessions Judge which was registered as Criminal Revision No. 16/2016. The Revisional Court finally passed the impugned order setting aside the order of the Chief Judicial Magistrate based upon the nature of the complaint and also evidence which were produced along with the complaint. The Revisional Court was of the opinion that *prima facie* the Respondent

has been able to establish an act of cheating committed by the present Petitioners. Based upon which the Revisional Court finding the order of the Chief Judicial Magistrate to be improper had set aside the same and directed the Court below for registering the complaint and proceed further in the case.

6. Learned Counsel for the Petitioners submits that the findings of the Revisional Court is bad in law and perverse to the extent that the Revisional Court has not appreciated the facts that the nature of the dispute was purely civil in nature and therefore the order of the Chief Judicial Magistrate ought to have been maintained. He further submits that from the evidence it is reflected that there is no element of evidence available with the Respondent to substantiate his allegation and therefore the order of the Revisional Court deserves to be quashed.

7. However, considering the submissions of the learned Counsel for the Petitioners and a perusal of the record, this Court is of the opinion that the Court below has in fact taking note of all the contentions put forth by the Respondents in the Revision Petition, and has also taken note of the evidence particularly the statement of the witnesses recorded at the time of the lodging of the complaint *prima facie* wherein it appears that the present Applicant is said to have taken an amount of Rs. 2 Lakhs from the mother of the Respondent in the garb of getting them an employment in the Aganbadi.

8. In the opinion of this Court the findings of the Revisional Court can not be said to be bad in law for the reason that it has taken in to consideration all the facts contained in the document and evidence brought at the time of lodging of the complaint, calling for no interference exercising extra ordinary power conferred upon this Court under Section 482 of the Cr.P.C. So far as the standard of proof and other evidences available with the complainant the same will be put to test during trial, where the parties get an opportunity to establish their respective case by leading cogent evidence. Further the evidentiary value of the evidence will also be considered threadbare. This would not be the standard of test at the time of entertaining a complaint seeking registration of an offence.

9. For the aforesaid reasons the Revision Petition being devoid of merit, the same is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE