

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 173 of 2014

- Smt. Champa Devi, wife of late Devan Das, aged about 52 Years, resident of Ayodhyapuri, Post Jamnipali PS. Jamnipali Dist. Korba CG

---- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Home Department, Mahandi Bhawan, Mantralaya New Raipur CG
2. The Superintendent of Police, Korba, District Korba, CG
3. The Station House Officer, Police Station Darri District Korba, CG
4. Onkar Singh Tanwar, Revenue Inspector, Nagar Palika Nigam Darri Zone Korba CG
5. Shatrughan Prasad Rathore, Assistant Revenue Inspector, Nagar Palika Nigam, Darri Zone Korba, District Korba, CG
6. Dashrath Lal Rathore, Notary, Tahshil Office Katghora, Dist. Korba CG
7. Manoj Agrawal, son of N.L. Agrawal, Notary, Korba, District Court Premise, Korba CG
8. Shankar Singh Rajput, son of Ajay Singh Rajput, resident of Village Ayodhyapuri, Tent House Darri, Police Station Darria, District Korba CG
9. Gulam Mohammad son of Hazi Ismail, resident of Village Ayodhyapuri, Post Jamnipali, Police Station Darria District Korba CG
10. Ramkhilawan Rathore, son of T.R. Rathore, resident of Village Ayodhyapuri, Post Jamnipali, Police Station Darria District Korba CG
11. Dharamendra Tiwari, resident of Sada Colony, Janipali, Sardar Vaalabh Bhai Patel Nagar Post Janipali, Police Station Darria District Korba CG
12. Ramnish Kaushal, son of N.C. Kaushal, resident of Quarter No. 127 Sada Colony, Janipali, Sardar Vallabh Bhai Patel Nagar, Post Jamnipali, Police Station Darria District Korba CG

---- Respondents

For Petitioner	:	Shri Anup Majumdar, Advocate
For Respondent Nos 1 to 3	:	Shri Vivek Sharma, GA
For Respondent No. 11	:	Shri Parag Kotecha, Advocate
For other respondents	:	None appeared though served.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

28/11/2016

According to the case of the petitioner, respondent No. 12 is her tenant since 9.4.2007 but till date he has not paid any rent to her. On 20.11.2011 son of the petitioner is alleged to have purchased a BSNL SIM Card from the shop of respondent No. 12 and for that he (respondent No. 12) is said to have obtained his signature on two blank stamp papers. Later on, these stamp papers are said to have been used by respondent No. 12 for sale agreement of the same shop which was given to him by the petitioner on rent vide Annexure P-2. Immediately after coming to know this fact, on 31.12.2013 FIR was lodged against respondent No. 12 in the concerned Police Station based on which offences under Sections 420, 467 and 468 IPC at Crime No. 264/2013.

2. In this petition, stand of the petitioner is that respondent Nos. 4 to 11 are also involved in commission of the offence i.e. transfer of shop in the revenue records, preparation of forged sale agreement and notarization thereof but only the respondent No. 12 has been made accused. Petitioner has thus made a prayer in this petition for issuance of direction to the police authority to array respondent Nos. 4 to 11 as co-accused in the crime in question.

3. On the contrary, stand of the State Government in this petition is that after due investigation the police have filed the charge-sheet against respondent No. 12 and the trial is pending before learned Judicial magistrate First Class, Korba. Further stand of the State Government in this case is that if the petitioner is not satisfied with the filing of charge-sheet by the police, she is at liberty to avail the alternative remedies available to her under Sections 156 (3) and 200 of the Code of Criminal Procedure. State counsel submits that apart from these two remedies, the petitioner can also file an appropriate application under Section 319 of the Code of Criminal procedure before the Magistrate and who has ample power to issue direction for impleadment of such persons as accused. To strengthen his contention, State counsel relied upon the decision of the Apex Court in the matter of ***Sakiri Vasu v. State of UP and others*** reported in ***(2008) 2 SCC 409***.
4. Counsel for respondent No. 11 while adopting the argument of the State counsel submits that merely on the say of the petitioner nobody can be arrayed as accused and once a fair investigation has been done by the State Government, this petition has no substance at all. He adds to his submission that if the petitioner is so aggrieved, she can avail the alternative remedies available under the law.
5. On being asked by this Court whether the petitioner wants to file an application before the trial magistrate, it was replied by Shri Majumdar appearing for her that the petitioner just wants adjudication of the matter, and as regards alternative remedy she will think about that at the subsequent stage.
6. Heard counsel for the parties and perused the documents on record.
7. On hearing the counsel for the parties, taking note of the documents

on record and also in view of the decision of the Apex Court in the matter of ***Sakiri Vasu v. State of UP and others*** (*supra*) referred to above, it appears that petitioner has other alternative remedies available under the law under Section 156 (3) or under Section 200 or under Section 319 of the Code of Criminal Procedure and it would not be proper to direct the Police Authority to array the particular persons as accused in this case. At the same time, in the given facts and circumstances of the case this Court is of the opinion that the petitioner has not been able to point out any specific flaw in the investigation carried out by the State Government making this Court grant the relief prayed for by her in this petition. However, if the petitioner still feels any grievance, she is at liberty to file appropriate application before the trial Magistrate under the provisions referred to above. Needless to say that if any such application is filed by the petitioner, the trial magistrate shall decide the same expeditiously in accordance with law. As far as other grounds raised in the petition are concerned, this Court is not inclined to entertain this petition thereon.

8. The petition thus being devoid of any substance is liable to be dismissed and it is dismissed as such.

Sd/-

(Pritinker Diwaker)

Judge

