

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 847 of 2016**

- Smt. Anita W/o Ramesh Kumar Aged About 35 Years Caste Teli, R/o Bhadesar, Tahsil & Police Station Janjgir, District Janjgir Champa, Chhattisgarh.

---- Petitioner

Versus

1. Prakash @ Chandra Prakash S/o Panchram Caste Teli, R/o Pondi (Rachha), Tahsil & P.S. Navagarh, District Janjgir Champa, Chhattisgarh.
2. Chandram S/o Rikhiram Caste Teli, R/o Village Kesla, P.S. Shivrinarayan, Tahsil Navagarh, District Janjgir Champa, Chhattisgarh.
3. Vinod Kumar S/o Rameshwar Sahu Caste Teli, R/o Pondi (Raccha), Tahsil & P.S. Navagarh, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner

Shri N.K. Chatterjee, Advocate.

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****09/08/2016**

1. The present Cr.M.P. has been filed challenging the order dated 15.06.2016 passed by the Second Additional Sessions Judge, Janjgir in Criminal Revision No. 19/2016. Vide the said impugned order the Revisional Court has upheld the order dated 28.12.2015 passed by the Judicial Magistrate First Class, Nawagarh in unregistered Complaint Case/2015 wherein the Court below had rejected the complaint case preferred by the present Petitioner holding it having insufficient material for registration of a case.

2. The facts in brief is that the present Petitioner is the sister of Respondent No.1 and other two, Respondents No. 2 & 3 are relatives of the

Petitioner and Respondent No.1. It is alleged that the parents of the Petitioner and Respondent No. 1 had died early and at the time of death of their parents Respondent No.1 was minor and the present Petitioner was major in the family and she was taking care of the younger siblings. Subsequently, it is alleged by Respondent No.1 that the Petitioner has sold about 0.74 Acres of land which was in the name of their younger sisters Ku. Chandra and Ku. Preeti to one Mela Bai without the consent of Respondent No.1. It is also further alleged that subsequently on the basis of a fake mark-sheet wherein his date of birth was manipulated to show himself as major and the Respondent No.1 used the same in Revenue Department and got the property mutated in his name. It is also alleged that subsequently on 14th December, 2014, Respondent No.1 is said to have threatened the husband of the Petitioner – Ramesh Kumar and has also used abusive languages. It is for this reason the complaint case was lodged before the Judicial Magistrate First Class, Nawagarh on 25.05.2015 which the Court below vide its order dated 28.12.2015 rejected holding that the complaint case does not show sufficient materials so as to take cognizance of an offence. Against the said order dated 28.12.2015, the Petitioner has also preferred revision petition which was registered as Criminal Revision No. 19/2016. The Revisional Court also vide the impugned order dated 15.06.2016 has rejected the Revision holding the fact that the order of the Judicial Magistrate First Class was proper, legal and justified for the reason that the nature of the dispute alleged between the parties is already under adjudication before the Court of Civil Judge, Class-I Nawagarh and that the civil suit was filed much earlier than the complaint case was filed. Further it was found that the allegation so far as the abusive language used by the Respondent No.1 against the Petitioner's Husband is concerned it was also not substantiated at the time of registration of the

complaint case and therefore the Revisional Court has affirmed the order of the Judicial Magistrate, First Class, Nawagarh. Learned Counsel for the Petitioner submits that the two Courts below have erred in not appreciating the statement of the complainant made before the Court below and in a mechanical manner rejected the same and therefore it calls for interference.

3. Learned Counsel for the Petitioner further submits that even if for some reason this Court is of the view that the dispute pertaining to the property is under adjudication before the Civil Court, but the Courts below are silent in respect of the abuses made by Respondent No.1 and therefore the orders of two courts below are bad.

4. Taking into consideration the fact that the alleged date of incident of the abuses made by the Respondent No. 1 to the husband of the Petitioner is December, 2014 and the complaint has been lodged almost after 6 months on 25.05.2015, and there does not appear to be a plausible explanation given by the Petitioner at the time of lodging of the complaint for the delay. Similarly, it is also an admitted position that the civil suit was filed as early as in January, 2015 and even then the Petitioner did not think it proper to file complaint against Respondent No.1, and it is 5 months later the complaint has been lodged, this fact also might have weighed in the minds of the 2 Courts below while rejecting the complaint as well as the Revision. In the opinion of this Court the 2 Courts below have not committed any error of law, illegality or infirmity while passing of the 2 orders, calling for an interference invoking the powers of the High Court under Section 482 of the CrPC.

5. Accordingly, the Cr.M.P. being devoid of merit, the same is rejected.

**Sd/-
(P. Sam Koshy)
JUDGE**