

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Miscellaneous Petition No. 1056 of 2016**

1. Rajeev Kumar Thawait S/o Shri Jagannath Prasad Thawait, aged about 36 years, R/o behind Sector -06, Indira Nagar Ward No. 27, P.S. Balco Nagar Korba, Tahsil Korba, Civil and Rev. Distt. Korba, Chhattisgarh.
2. Shamsheer Alam S/o Shri A. Majid, aged about 35 years, R/o M.I.G. -90, Shivaji Nagar Korba, Tahsil Korba, Civil and Rev. Distt. Korba, Chhattisgarh.
3. Dinesh Singh Rathore S/o Shri Prasad Rathore, R/o Quarter No. 155/4/A, Balco Nagar Korba, P.S. Balco Nagar Korba, Tahsil Korba, Civil and Rev. Distt. Korba, Chhattisgarh.

---- Petitioners**Versus**

1. Dharendra Rathore S/o Shri Chhunni Lal Rathore, aged about 44 years R/o Village Nandour Kala, Thana and Tahsil Sakti, Civil and Rev. Distt. Janjgir Champa, Chhattisgarh, at present R/o. Quarter No. 642/4 A, P.S. Balco Nagar, Distt. Korba, Chhattisgarh.
2. State of Chhattisgarh through the District Magistrate, Korba, District Korba, Chhattisgarh.

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For Petitioners	:	Shri Samir Singh, Advocate
For Respondent/State	:	Shri Satish Gupta, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****23/09/2016**

The present petition under Section 482 CrPC has been filed against the order dated 06.08.2016 passed by the Special Judge (Atrocity), Korba in Criminal Revision No. 02/2015 whereby the Revision preferred against the order of registration of a complaint for the offence under Section 420 IPC by the JMFC, Korba in Criminal Complaint Case No. 646/2013 has been rejected.

2. Counsel for the petitioner submits that the challenge to the registration of the complaint as well as the rejection of the Revision petition is on the ground that the dispute between the parties is purely of civil in

nature and therefore the JMFC at the threshold should have rejected the same. It is contended that the learned Magistrate should have considered the aspect of the dispute between the parties being agitated for a proceeding under Section 145 of CrPC. In addition, there is also a civil suit filed on an earlier occasion by one of the tenants of the premises and the same is also pending. All these according to the counsel for the petitioner clearly indicate the dispute to be of civil in nature and therefore, the registration of the complaint is bad in law and deserves to be set aside.

3. Per contra, State counsel opposes the petition on the ground that the allegation against the petitioner is prima facie that of a forged signature of the complainant-respondent no.1 in an agreement on the basis of which the sale deed was executed between petitioner and respondent no.1. According to the State counsel, since there is an allegation of forging the signature of the complainant, there was prima facie material available before the Magistrate for registering the complaint which cannot be said to be bad in law or illegal in any manner.

4. Having considered the rival submissions put forth by the counsel appearing on either side and on perusal of the record, in the opinion of this Court, there is no illegality or infirmity committed on the part of the two Courts below firstly in registering the complaint and subsequently in rejecting the revision petition as the allegation against the petitioner is that of forging the signature of the complainant-respondent no.1 in the course of execution of the documents particularly the sale deed executed between the petitioner purchaser and the respondent no.1 seller. This allegation of forging of signature is a prima facie material which is rebuttal in nature and which can only be decided after appreciating the evidence that will be brought on record during the course of trial.

5. Whether the charge levelled against the petitioner is made out or not is a matter which would be thrashed out before the trial Court only by way of leading evidence on either side. The High Court while exercising the powers under Section 482 Cr.P.C. seeking quashing of the initiation of the Criminal Case would not conduct a roving inquiry to reach to a conclusion whether the nature of dispute would lead to the conviction of the petitioner or not. So far as the power under Section 482 Cr.P.C. is concerned, it has to be exercised sparingly and cautiously while passing an order and it should not be exercised to snub the legitimate prosecution.

6. A plain perusal of the complaint itself clearly indicates that there was prima facie material brought on record by the complainant on the basis of which the complaint was registered. Therefore, this Court does not find any illegality or infirmity committed by the two Courts below while registering the complaint at the first instance by the JMFC, Korba vide its order dated 28.09.2013 and subsequently the rejection of the revision petition by the Revisional Court vide impugned order dated 06.08.2016 calling for any interference.

7. Thus, the present CrMP being devoid of merit deserves to be and is accordingly dismissed.

8. It is made clear that the petitioner would be at liberty to take all the defence available to him including that of examination of the hand-written expert, if possible.

Sd/-

(P Sam Koshy)
Judge