

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 46 of 2017**

- Jitendra Kumar Verma S/o Shri Daadu Prasad Verma Aged About 37 Years Caste Dhimar, Occupation Bussiness, R/o Haldibadi Chirmiri, District Koriya, Chhattisgarh, Presently R/o Mohalla Khajurpara, Brahmroad, City Ambikapur, Police Station & Tehsil Ambikapur District Surguja, Chhattisgarh.

---- Petitioner**Versus**

1. Dadu Prasad Verma S/o Late Chedilal Aged About 55 Years R/o Haldibadi In Front Of Jain Mandir, Chirmiri, District Koriya, Chhattisgarh.
2. Suresh Verma S/o Daadu Prasad Verma Aged About 35 Years R/o Haldibadi In Front Of Jain Mandir Chirmiri District Koriya, Chhattisgarh.
3. Dinesh Verma S/o Daadu Prasad Verma Aged About 23 Years R/o Haldibadi In Front Of Jain Mandir Chirmiri District Koriya, Chhattisgarh.
4. Himanshu Kumar Gupta S/o Radhakrishna Gupta Aged About 42 Years R/o Haldibadi In Front Of Jain Mandir Chirmiri District Koriya, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Nishikant Sinha, Advocate.
For Respondents	:	None appears even when the case is called out for hearing in the second round.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****07/09/2017**

Heard.

1. Petition has been brought under Section 482 of Cr.P.C. with a prayer to quash the impugned orders passed by the Courts below refusing to take cognizance on the complaint presented by the petitioner.

2. Petitioner filed a complaint against the respondents alleging in it that he is the sole owner of the disputed shop. Respondents No.1 to 3, who have no right or title over the disputed shop, have executed a notarized document in the shape of sale deed dated 7.7.2010 in favour of respondent No.4, for transfer of the disputed shop, by forging the signature of petitioner. On the basis of this document, respondent No.4 has forcefully taken possession of the disputed shop. Hence, a prayer was made before the Court to register and take cognizance of offence under Sections 419, 420, 467, 468/34 of Indian Penal Code (for short 'IPC') against all the respondents.
3. It is submitted that petitioner totally denies for being a signatory to the said forged notarized sale-deed which is not a registered document for sale. After examining the witnesses of the complainant, the trial Court passed an order dated 30.7.2013, in which, it was held that the document executed before the Notary Public has no legal force and respondent/accused persons do not get any benefit from such document i.e. sale deed and that the instant case is purely of civil nature. Mentioning these reasons the complaint was rejected.
4. Petitioner preferred a Revision No.87/2013 before the Court of First Additional Sessions Judge, Manendragarh District-Koriya, which has been decided on 28.7.2016, and the order passed by the trial Court Magistrate was upheld.
5. It is submitted by the counsel for petitioner that the orders passed by the Courts below are illegal and arbitrary. Just for the reason that the forged document, the notarized sale-deed, would have no legal effect, refusal to take cognizance in the case, was not a proper order. Consequent to the

execution of the forged document, respondent No.4 has taken possession of the shop of the petitioner and similarly has got done mutation in the municipal records in his favour. Hence, prayed that relief be granted.

6. Heard counsel for the petitioner and perused the documents on record.
7. From the statement made in complaint and the statement recorded in the preliminary inquiry under Sections 200 & 202 of Cr.P.C., it is clear that petitioner has clearly stated that he is not a signatory to the document of transfer i.e. notarized sale-deed, and his signature was forged by somebody else and that is a sufficient statement and allegation against the respondents. In this situation, refusal to take cognizance in the case should not have been made. The provision under Section 463 of IPC is clear that whenever any false document is prepared by a person with intent to cause damage or injury to any person or to cause such person to part with property, it is said that the offence of forgery has been committed. Similar is the provision under Section 464 of IPC which has been made punishable under Section 465 of IPC. The question of legality or otherwise of a document has nothing to do with the ingredients of the offence under Sections 467 and 468 of IPC, if the document so forged helps a person to defraud and make some other person part with some property in his possession or vested with him, in that case the conditions required for commission of such offence can be said to have been fulfilled.

Hence, for these reasons, it is found that the observation made by the trial Court as well as by the revisional Court below that the document of transfer i.e. notarized sale-deed, is not legally acceptable on account of being a unregistered document, is not a proper reason to have made

the basis of rejection of the complaint case. Thus, the impugned order and the order of trial Court are not proper in the eyes of law and the same are liable to be interfered with in exercise of extra-ordinary jurisdiction under Section 482 of Cr.P.C.

8. In view of above discussions, the petition is allowed. The impugned order passed by the Sessions Court dated 28.07.2016 and the order passed by Judicial Magistrate First Class dated 30.07.2013 are hereby set aside. The complaint case is remanded back to the trial Court with a direction to reconsider and pass order after taking cognizance on the complaint made by the petitioner.
9. Accordingly, petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE