

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 443 of 2017

Ravishankar Yadav, S/o. Late Kedarnath Yadav, Aged About 58 Years, R/o. 4-Type- 13, SADA Colony, Korba, Tahsil & District- Korba, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through : The Station House Officer, Police Station- Rampur, District- Korba, Chhattisgarh (Wrongly Mentioned As District Magistrate, Korba, Chhattisgarh).

Note: The Other Respondents/ Accused have not been impleaded as part respondents in the instant petition as they are not required to be impleaded for decision of this petition.

-----Respondents

For Petitioner	: Mr. Goutam Khetrapal, Advocate
For Respondent/State	: Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/09/2017

Heard.

1. This petition under Section 482 of Cr.P.C. has been brought with prayer to quash the criminal proceedings against the petitioner.
2. It is submitted by the learned counsel for the petitioner, that petitioner is employed in the capacity of clerk in office of Municipal Corporation, Korba. One FIR was registered against co-accused persons with allegation that co-accused Amin Memon and Raju Jindal, negotiated with complainant – Suresh Kumar Agrawal for sale of land leased to one Umapati. Some woman impersonated as Umapati and the land

was transferred by the registered sale deed and Rs.20.00 lakhs were received by the woman who impersonated as Umapati. Complainant made an enquiry after transaction having some doubts and found that fraud has been committed and the complaint was made. After the investigation of the case, petitioner has also been arrayed as an accused for having collaborated with accused persons. It is submitted that petitioner has been falsely implicated. There is no evidence of any of the witnesses to involve the accused in the conspiracy of the offence committed.

3. Counsel for the State submits that the complainant in this case is necessary party, who has not been made as a party. It is further submitted that charge-sheet mentions that petitioner had been collaborator in the offence committed and the statement of the witnesses also disclose the role played by the petitioner. Hence, no case is made out for interference by this Court for exercising inherent jurisdiction.
4. I have heard the learned counsel for the parties and perused all the documents placed on record.
5. It is clear that petitioner has not been named in the FIR as one of the collaborator. In the statement under Section 161 of Cr.P.C., complainant Suresh Kumar Agrawal and Naresh Kumar Agrawal have submitted that on query being made from the municipal office, petitioner in capacity of clerk of municipal corporation assured him that land belongs to Municipal Corporation and there is no possibility of any forgery. Other witness examined Satruhan Kakkad has not made any statement against the petitioner. D.P. Tiwari, who is the Deputy Commissioner of the Municipal Corporation, Korba at that time, he has

stated that petitioner helped in completing formalities after verifying the records and presented the note-sheet for approval before him. Sub-Registrar, A. Minz, Korba has stated that petitioner came to his office along with vendor and purchaser with documents. Umapati and Ramnivas Rathiya have not stated anything against the petitioner.

6. Statement of only 7 witnesses have been recorded under Section 161 of Cr.P.C., which has been examined in the aforementioned paragraphs. For the purpose that petitioner was one of the collaborator, the statement of witnesses as aforementioned can not be said to be sufficient. In capacity of clerk in the municipal office and being in-charge of the documents of the land leased out by the Municipal Corporation, it was the duty of the petitioner to help in the verification of the record to satisfy the query as to who is the owner of the land proposed to be transferred. This duty was performed by the petitioner. There is no statement of any of the witnesses that petitioner was one, who identified the impersonator as real lease holder, on the contrary, he has acted on the information supplied to him by the co-accused persons. Hence for these reasons and the evidence, on the basis of which, petitioner is being prosecuted is totally deficient and this appears to be an abuse of process of law. Hence this petition is allowed. The proceedings of Criminal Case No.1077/2014, pending before the Court of Chief Judicial Magistrate, Korba so far it relates to the petitioner for the offence under Section 420, 467, 468, 471, 506, 419, 120(B) read with Section 34 of Indian Penal Code is quashed. The petitioner is acquitted of the charges.

Sd/-
(Rajendra Chandra Singh Samant)
Judge