

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 619 of 2015

- Dyanchand S/o Loonkaran Bafna Aged About 47 Years R/o Village Gatapur, Police Station And Tah. Khairagarh, District Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through District Magistrate, District Rajnandgaon, Chhattisgarh.
- Bhurnal Bafna S/o. Loonkaran Bafna, aged about 50 years, R/o Ganj Line Rajnandgaon, P.S. City Kotawali, Tahsil and District-Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	:	Shri V.K. Sharma, Advocate.
For State/Respondent No.1	:	Shri Neeraj Sharma, Government Advocate.
For respondent No.2	:	Shri Mahesh Pandey, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

03/07/2017

1. Heard.
2. Petitioner has challenged the criminal proceedings against him before the Additional Chief Judicial Magistrate, Khairagarh in Criminal Case No.670/2013 in which he is being charged and prosecuted under Section 420, 467, 468 and 471 of Indian Penal Code (for short 'IPC').
3. A prosecution was initiated against the petitioner on the basis of FIR lodged by respondent No.2 in Police-station-Khairagarh, District-Rajnandgaon. Trial Court has framed charges under Sections 420, 467, 468 and 471 of IPC and ordered for trial of the case. Petitioner preferred a Revision Petition No.4/2014 before the Court of Additional Sessions Judge, Khairagarh, by order dated 28.5.2015 the revision has been dismissed.
4. It is submitted by the learned counsel for the petitioner that he has never committed any act of forgery and neither has forged any document. It is admitted that there is a dispute but, this dispute is of civil nature, hence,

petitioner is being unnecessarily harassed by the abuse of process by the respondent parties. Prayer has been made for quashing the entire criminal proceeding against the petitioner.

5. Learned counsel for the petitioner submits that the dispute between the petitioner and respondent No.2 is with respect to the property one sawmill situated in Gatapar Kala styled as Lahri sawmill. This sawmill was raised by the father of petitioner and respondent No.2 Loonkaran Bafna. In partition of joint family property, the sawmill in question was partitioned in favour of petitioner for which, a consent letter dated 13.1.2009 was executed by Shri Loonkaran Bafna and other family members. Respondent No.2 is also a signatory to that consent letter. Further, a letter of sale was executed and signed by Loonkaran Bafna in favour of the petitioner and, later on, the same property has been transferred in favour of the petitioner by Loonkaran Bafna by executing a registered sale-deed dated 3.7.2013. A mutation has been ordered in favour of petitioner by Forest Department vide order dated 23.4.2010 which is annexed as **Annexure-P/3**. The claim of respondent No.2 that the sawmill in question was never partitioned in favour of the petitioner and that petitioner has forged the document in his favour, is without any basis and proof. Basically this is dispute of civil nature, hence, no criminal proceedings can be taken up against the petitioner.
6. It is submitted on behalf of respondent No.2 that the consent letter dated 13.1.2009 has been forged by the petitioner. The signature of respondent No.2 on consent letter has been forged by the petitioner. On the basis of report lodged against the petitioner in P.S.-Khairagarh, investigation has been conducted and it has been found that the petitioner has forged a valuable security and cheated the respondent No.2. The only course open to the petitioner is to defend himself in the criminal prosecution case. Hence, this petition is not maintainable.
7. It has been provided under Section 482 of Cr.P.C that:-

Saving of inherent powers of High Court- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

This is a case in which petitioner is being prosecuted on the basis of FIR lodged against him by respondent No.2 and the evidence collected against him in support of the offenses tried against him. Petitioner has every opportunity to raise the grounds taken by him in this petition as his defence in the criminal

case and make every efforts to disprove the case of prosecution. At this stage, it does not appear in any sense that there had been any flagrant abuse of provisions of law in conducting the investigation of the case, prosecuting the petitioner and putting him for trial. The abuse of process of any Court must be apparent and noticeable for the purpose of exercising of inherent powers under Section 482 of Cr.P.C. Hence, for these reasons this petition is found without any substance.

8. Accordingly, the petition is dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE

Nisha