

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 146 of 2017**

- R.K.Shrivastava S/o Late Shri D.P. Shrivastava, Aged About 60 Years R/o 26/1 Radhika Nager, Supela, Bhilai, Tahsil & District Durg (Chhattisgarh) Presently Residing At Managing Director, The Bills International Club And Resort, Village Somni, Tahsil And District Rajnandgaon (Chhattisgarh).

---- **Petitioner****Versus**

1. Sambhav Luniya S/o D. K. Luniya, R/o Golbazar, Khairagarh, District Rajnandgaon Chhattisgarh
2. D. K. Luniya R/o Golbazar, Khairagarh, District Rajnandgaon (Chhattisgarh).

---- **Respondent**

 For Petitioner:

Mr. Gagan Tiwari, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board**02.02.2017**

1. The present Cr.M.P. has been filed under Section 482 of the Cr.P.C. assailing the order dated 20.12.2016 passed in Criminal Revision No. 84/2016 whereby the Revisional Court has affirmed the order passed by the Judicial Magistrate, First Class, Rajnandgaon rejecting the complaint under Section 156(3) of the Cr.P.C dated 09.08.2016 holding that no criminal offence is made out in the nature of the allegation levelled and that the dispute between the parties appears to be more in the nature of a civil dispute.
2. The facts in brief as has been narrated by the Counsel for the Petitioner is that the dispute arose on account of the marriage hall

which is owned by the Petitioner, given on rent to the Respondents for two days from 28.04.2016 to 30.04.2016. The parties had entered into an agreement for payment of Rs. 9.09 lakhs for the use of the marriage hall for the aforesaid period. This is also not in dispute that the Respondents had paid amount of Rs. 6 lakhs to the Petitioner as advance and it was further agreed between the parties that the balance amount would be paid by 30.04.2016. Subsequently, before the function could finish on 30.04.2016 the present Petitioner is said to have demanded the balance amount to Respondent No.1 who it is alleged to have refused to release the payment. According to the Petitioner it was an act of cheating on the part of the Respondents. In addition when he sought for payment of the balance amount agreed between the parties, the Respondents have refused to oblige and used filthy language and also threatened him with dire consequences. The Petitioner subsequently filed a complaint under Section 156(3) of the Cr.P.C. before the J.M.F.C., Rajnandgaon which was unregistered number and which was rejected by the J.M.F.C. vide order dated 09.08.2016 taking the view that the dispute between the parties was more of civil in nature and not criminal in nature. The said order dated 09.08.2016 of the J.M.F.C. was subjected to challenge in a criminal revision which was registered as Criminal Revision No. 84/2016. The Revisional Court also after considering the facts and circumstances of the case reached to the conclusion that order of the J.M.F.C. in rejecting the complaint under Section 156(3) was proper, legal and justified that the dispute between the parties arising out of an agreement and the transaction was purely a money dispute between the parties, thus upholding the order of the Magistrate, the Criminal

Revision was also rejected.

3. Learned Counsel for the Petitioner submits that it is a case where on demand of the balance amount by the Petitioner the Respondents have used abusive language and have also threatened for dire consequences. In addition, the Respondents have cheated the Petitioner in as much as having initially accepted for the use of the marriage hall for an amount of Rs. 9.09 lakh, he has not paid the full amount sufficiently shows that from the beginning itself the Respondents had an intention to cheat the Petitioner. Thus the offence under Section 418 and 420 of the IPC are also made out and therefore the Police authorities at the first instance, the Magistrate and the Revisional Court later on should have considered this aspect in a broad perspective instead of rejecting the complaint holding it to be a dispute of civil nature.
4. Learned Counsel for the Petitioner further submits that the Magistrate ought to have given direction to the police authorities at least for conducting preliminary inquiry in the nature of the allegation which has been levelled and having not done so the order of the Court below is bad in law.
5. Having considered the rival contentions put forth by the Counsel for the Petitioner and perusal of the record what clearly reflects and has fairly been admitted by the Counsel for the Petitioner is that admittedly the premises which was owned by the Petitioner was given on rent to the Respondents for a period from 28.04.2016 to 30.04.2016 for an amount of Rs. 9.09 lakhs. It has also been admitted by the Petitioner that they have received Rs. 6 Lakhs out of total amount of 9.09 lakhs. The dispute arose between the parties when the present Petitioner is

said to have demanded the balance amount. The complaint under Section 156(3) which has also been enclosed along with the present petition as Annexure – 2 was first filed on 04.08.2016. Further the said complaint does not disclose as to when petitioner had gone to the Respondents claiming for demand and also what were the abusive words which were used by the Respondents. In para 6 of this complaint he has shown that he has repeatedly telephoned the Respondents seeking for the money but there was no favourable response from the Respondents. All these facts were taken into consideration by the Magistrate while rejecting the complaint on 09.08.2016. Again from perusal of the order of the Revisional Court what is reflected is the fact that the Revisional Court also taking into consideration the submission made by the Counsel for the Revisioner and also perusing the complaint under Section 156(3) of the Cr.P.C., found the nature of the dispute between the parties to be purely civil in nature as there was a money dispute between the parties and the complaint does not disclose any filthy language to have been used from the Respondents side neither there was anything to show that there was a threat given by the Respondents to the Petitioner so as to bring home the offence under Section 506 IPC or for that matter under Section 294 of the IPC, Accordingly, the Revisional Court holding the dispute more of civil in nature maintained the order of the J.M.F.C.

6. Having considered the two orders of the Court below and also the fact that the nature of the dispute between the parties was more of commercial / civil in nature as prima faice the dispute between the parties was for the demand of balance amount which was raised by the Petitioner. Thus in the given facts and circumstances of the case this

Court does not find any illegality or infirmity on the part of the two Court below in reaching to the said conclusion.

7. Accordingly, the present Cr.M.P. being devoid of merits stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE