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HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 235 of 2017**

Satnam Singh S/o Late Chamanlal Jee, Aged About 58 Years Residence
Subhas Nagar, Durg, Post Office Durg, Police City Kotwali, Durg, Tahsil &
District Durg, Chhattisgarh. **---- Applicant/petitioner**

Versus

1. Hiralal Deshmukh Aged About 45 Years Residence Devari Devsara, Post Office Devari, Police Station Pulgaon, Durg, Tahsil & District Durg, Chhattisgarh.
2. Baijnath Deshmukh Aged About 48 Years Residence Devari Devsara, Post Office Devari, Police Station Pulgaon, Durg, Tahsil & District Durg, Chhattisgarh.
3. Smt. Rama Gupta W/o Gajendra Gupta, Aged About 45 Years Residence, Subhas Nagar, Durg, Post Office Durg, Police Station City Kotwali, Durg, Tahsil & District Durg, Chhattisgarh.
4. The State Of Chhattisgarh Through The Police Station Pulgaon, Durg, Chhattisgarh. **---- Respondents**

For Applicant	:	Mr. K.R. Loniya, Advocate.
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Oral Order****16/03/2017**

Heard.

1. This petition under Section 482 of Cr.P.C. has been filed by the petitioner aggrieved by order dated 08.06.2016 passed in Criminal Revision, affirming order dated 01.03.2016 dismissing the complaint of the petitioner.
2. Learned counsel for the petitioner argued that the Courts below have dismissed the complaint without taking cognizance even though a prima facie case of commission of offence as alleged by the petitioner was made out.

3. Learned counsel for the petitioner argues that in the complaint, it was categorically alleged that the complainant was called in a house by non-applicants No.1 & 2 and when the petitioner reached there, he was threatened to kill due to which, the petitioner had to submit a report in the Police Station. When the police did not take any action, the petitioner filed a complaint. The petitioner in his preliminary statement also clearly stated regarding said offence but the Court below dismissed the complaint without keeping in view that for the purpose of taking cognizance only a prima facie case is required to be made out and that is not the stage when the evidence on record are required to be scrutinized. According to learned counsel for the petitioner, the Courts below have scrutinized the evidence on record which was not permissible at this stage.

4. It is not in dispute that the petitioner and respondent No.1 & 2 had earlier entered into negotiation with regard to purchase of a house. According to the petitioner, he works for commission in the matter of sale and purchase of land and houses. According to him, respondents No.1 & 2 had approached him stating that they intend to purchase a house and the petitioner had shown them a house. According to the complainant, commission at the rate of 2% was also fixed and therefore, the complainant was required to be paid Rs.22,000/- each from respondents No.1 & 2 as also for respondent No.3. Thus, a total amount of Rs.44,000/- was the amount of commission to which, he was entitled. According to him, though sale deed was registered on 15.04.2009, the said amount was not paid to him and when he went to meet respondents No.1 & 2 on 20.04.2009 stating that he may come and collect the amount, he was threatened. It, thus, shows that the parties were known to each other and there was already some kind of transaction going on between them. The Courts below have taken into consideration that the dispute appears to be of civil nature as relates to claim of money of Rs.44,000/- to the applicant against the non-applicants. The Courts below have taken into consideration that there is no document placed before the Court to show that there was an agreement to pay commission to the petitioner by the purchase of land. Now, statement any other person to submit his case that he works for commission or that any particular amount of commission was fixed in the present case. It has also not placed on record, any document to prima facie establish that any sale deed was executed in favour of respondents No.1 & 2 by respondent No.3. Further it has been found that the complaint is vague and the

story appears to be wholly improbable, because if the respondents were not inclined to pay any money to the applicant, it was wholly improbable that they would call the applicant in their house in the name of making payment.

5. The reason stated by the Courts below are sufficient to record a finding that complaint appears to be frivolous and not correct, it is not required to be registered as prima facie case is not made out and the dispute appears to be more of civil nature. It appears that only in order to harass the non-applicants, the complainant has filed the complaint, which has been rightly dismissed. Therefore, no case warranting interference is made out.

6. The petition is, therefore, dismissed.

Sd/-
(Manindra Mohan Shrivastava)

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