

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 533 of 2017**

- Sudama Suryavanshi S/o Malkhan, Aged About 52 Years R/o Sidh Nagar Malhar Ward No. 02, Post Malhar, Thana & Tahsil Masturi, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through Superintendent Of Police Bilaspur, District Bilaspur, Chhattisgarh.
2. Goverdhan Suryavanshi S/o Hriday Suryavanshi, Aged About 37 Years R/o Vidhyadih Tangar, Post Kosir, Thana & Tahsil Masturi, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Ganesh Ram Gupta,, Advocate on behalf of Shri T.K. Jha, Advocate
For Respondent-State	:	Shri Ashish Shukla, GA for the State.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****16/11/2017**

1. Heard.
2. The instant petition is for quashing the F.I.R. No.102/17, whereby the charge-sheet has been filed under Section 384 of the I.P.C.& Sections 3 & 4 of the Karja Act in the Police Station Masturi, District Bilaspur.
3. Learned counsel for the petitioner would submit that in fact the case is arising out of a civil transaction as some agreement has been executed in between respondent No.2 and the petitioner, whereby the petitioner agreed to purchase the land belonging to the respondent and paid an amount of Rs.3,02,600/-. Subsequently, in order to avoid the same, the false allegations have been made and a suit for specific performance has already

been filed.

4. As per the reply of the State, a report was made by respondent No.2/complainant and after investigation statement of the complainant Goverdhan and other witnesses namely Manharan, Ramvilas Manhar, Nahar Bai, Dinesh Ratre, Bihari Lal Kurre and Asharam Bharti were recorded and thereafter when the evidence was adduced, charge-sheet was filed before the JMFC, Bilaspur on 06.04.2017. It is further stated that the charges have been framed against the petitioner on 06.05.2017.
5. The statement of the three prosecution witnesses have already been recorded and the case is fixed for recording the evidence of the remaining prosecution witnesses on 19.01.2018. Having regard to the fact that the charges have already been framed against the petitioner and statement of three of the witnesses have already been recorded, therefore, prima facie, it appears that the Court has prima facie found the charges can be gone into trial. Therefore, whether the offence is made or not is to be adjudicated by the Court below at subsequent stage. Since three of the witnesses have already been examined at this stage giving any finding would amount to exercising the appellate jurisdiction of this Court to re-appreciate the trial and will amount to give a finding only on the basis of the statement of the petitioner that the said witnesses have not said the truth. It is for the trial Court to adjudicate the same and give finding. Therefore, considering the stage of the trial, no merit exists in this case to exercise the power vested under Section 482 of the Cr.P.C.
6. Consequently, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu