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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 103 of 2015**

Satish Jain S/o Shri Sampat Lal Jain, Aged About 57 Years R/o Near Jain Mandir, Shankar Nagar, P.S. Civil Line Raipur, Tehsil and District Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Police Station Golbazar, Raipur, District Raipur, Chhattisgarh.
2. Santosh Jain S/o Sampat Lal Jain, Aged About 46 Years R/o Raghav Kunj, Choubey Colony, Raipur, Chhattisgarh.

---- Respondents

For the Petitioner	:	Shri B.P. Sharma, Advocate.
For Respondent No.1/ State	:	Shri Anil S. Pandey, Government Advocate.
For Respondent No.2	:	Shri Amit Singh, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****20.07.2017**

1. Heard.

2. This petition has been brought under Section 482 of the Code of Criminal Procedure with a prayer to quash the First Information Report bearing Crime No. 189 of 2014 registered in police station Golbazar, Raipur.

3. Learned counsel for the petitioner submits that on the First Information Report lodged by respondent No.2 – Santosh Jain, offences under Sections 420, 467, 468 and 471 of the Indian Penal Code have been registered against the petitioner. It was alleged that the petitioner forged a *Vyavastha Patra* dated 4.10.1993 in favour of his nephew – Abhishek Jain for the purpose of settling the landed property in favour of Abhishek Jain. Mutation

was recorded in the Revenue records on the basis of the said *Vyavastha Patra* in which respondent No.2 did not raise any objection during the mutation proceeding. The petitioner has nothing to do with the alleged forgery and he has been falsely implicated. Respondent No.2 – Santosh Jain has got the *Vyavastha Patra* examined by a private handwriting expert and as such, police has registered an offence against the petitioner without any basis. It is further submitted that the petitioner is not the beneficiary of the so-called forged document, hence, for these reasons, the FIR against the petitioner may be quashed.

4. Learned counsel for the petitioner further submits that the said *Vyavastha Patra* was executed by respondent No.2 himself who is now taking a different stand and denying being a party to that *Vyavastha Patra* and levelling false accusation against the petitioner. The report submitted by the private handwriting expert on the basis of the examination conducted at the behest of respondent No.2 and not by the Investigation Officer, cannot be made evidence to be relied upon for the investigation purpose, as this part of examination of the document has clearly not been done by the Investigating Agency and for these reasons, the petitioner is entitled for relief prayed for in this petition. It is further submitted by counsel for the petitioner that on the basis of the rejoinder submitted to the reply given by respondent No.2, the petitioner also got the disputed document examined by another private expert who has reported that the signature and the thumb impression affixed for execution of *Vyavastha Patra* and the sample signature of respondent No.2 are of the same person.

5. Learned State counsel has submitted that the case is still under investigation, hence, all the grounds raised by the petitioner can be raised before the Investigation Officer.

6. Learned counsel for respondent No.2 has opposed the grounds mentioned in the petition and the submissions made by counsel for the petitioner. It is also submitted that the case is under investigation and there is nothing to suggest that abuse of process of law has been made.

7. Perused the record.

8. Considering the documents on record and the submissions made by the parties, it appears that the petitioner has an opportunity to submit the second opinion of the private handwriting expert before the police and it shall be the obligation of the police to take into consideration the second report of private handwriting expert and to come to a conclusion with respect to the commission of offence of forgery and cheating registered against the petitioner in accordance with the procedure laid down under the law. Hence, *prima facie* there is nothing to suggest that the criminal case registered against the petitioner is strictly a case of abuse of process of law. Hence, for these reasons, this petition is dismissed at the motion stage with a direction to respondent No.1 to continue with the investigation of the case keeping in view the observations made hereinabove.

Sd/-

(Rajendra Chandra Singh Samant)
Judge