

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 251 OF 2016

1. Sanjay Kumar Naidu, S/o Late P.K. Naidu, aged about 52 years, R/o Ramnagar, Supela, Bhilai, House No. 613, Tahsil & District Durg (C.G.)
2. Rameshwar Verma, S/o Sujeram Verma, aged about 56 years, R/o Zero Point, Shanti Nagar, Supela, Bhilai, Tahsil & District Durg (C.G.)

... Petitioners

Versus

1. Dharamchand Jain, S/o Mauji Lal Shah, aged about 71 years, R/o near Gayatri Temple, Azad Chowk, Ward No.12, Ram Nagar, Supela, Bhilai, Tahsil & District Durg (C.G.)
2. State of Chhattisgarh, through the District Magistrate, Durg (C.G.)

... Respondents

For Petitioners	:	Mr. B.P. Singh, Advocate.
For Respondent No.1	:	Mr. P.K. Patel, Advocate.
For Respondent No.2	:	Mr. V.K. Tekam, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/01/2017

1. The present petition under Section 482 of CrPC has been filed by the Petitioners, seeking for setting aside of the order dated 20.8.2015 passed by the Judicial Magistrate First Class, Durg, whereby the said Court has ordered for registration of a case under Sections 420, 467, 468, 471, 294, 506-B & 384 of IPC against the present Petitioners.
2. The said order dated 20.8.2015 was further challenged by the present Petitioners before the Court of Vth Additional Sessions Judge, Durg where the case was registered as Criminal Revision No. 0000198 of 2015, and the said Court has also rejected the revision of the Petitioners, leading to the filing of the present petition under Section 482 of CrPC.
3. Shri B.P. Singh, learned Counsel for the Petitioners, submits that it is not the stage where Respondent No.1 could have filed a complaint, as the facts show that the Petitioners have already sent the agreement entered into between the Petitioner No.1 with one Rajesh Prasad Gupta for the opinion of

the Handwriting Expert for verification of the signatures on it and till the opinion of the Handwriting Expert is not received, the Respondent No.1 could not have filed a complaint at all. He further submits that at this juncture there was no prejudice caused to Respondent No.1 inasmuch as it is only the allegations which have been made in respect of the property belonging to Respondent No.1 which the Petitioner No.1 was trying to fraudulently sell to one Rajesh Prasad Gupta. Shri Singh, further submits that the said Rajesh Prasad Gupta has already filed an FIR against the Petitioner vide Crime No. 434 of 2015 at Police Station Vaishali Nagar, Bhilai, in which charge-sheet has already been filed in respect of the same dispute, therefore the Respondent No.1 knowing fully well of the case filed against the Petitioner should not have filed a complaint case separately against the Petitioners. He further submits that it is a case where there are two agreements entered into between Petitioner No.1 and Respondent No.1 at the initial stages, however, subsequently the Respondent No.1 has taken a somersault and denied the total transaction that has transpired between Petitioner No.1 and Respondent No.1 and even denied his signatures on the two agreements that have been entered into and the money that was paid by Petitioner No.1 to Respondent No.1. He also submits that for the same transaction once a case has already been lodged by the police authorities at the instance of Rajesh Prasad Gupta, the present complaint by Respondent No.1 could not have been maintainable at all. He thus prayed for the quashment of the order dated 20.8.2015 ordering for the registration of the complaint.

4. Shri Patel, learned Counsel appearing for Respondent No.1, however, submits that it is a case where the stand of Respondent No.1 is that there is a total denial of execution of any agreement between Petitioner No.1 with Respondent No.1. The Respondent No.1 has also denied his signatures on any of the agreements so relied upon by the Petitioners. He further denies of having paid any money to Petitioner No.1 against the said agreements. Lastly,

it was also submitted by him, that Annexure P-2 which is an agreement dated 21.8.2014, shows the land owner to be the Respondent No.1 without any authority whatsoever given by Respondent No.1 to Petitioner No.1. The agreement was being entered into by the Petitioner No.1 in favour of Rajesh Prasad Gupta showing the Petitioner as the seller and Rajesh Prasad Gupta as the purchaser. This also, according to him, is a concocted, fabricated and a document without taking the Respondent No.1 in confidence nor was he aware of any such development.

5. Shri Tekam, learned Counsel for the State, also submits that it is a case where there has been sufficient material available in the complaint of Respondent No.1 before the Court below as regards the act of cheating and fraud committed by the Petitioners. According to him, it is also a case where the Petitioners have fabricated certain documents in respect of the property which was in possession and belonging to Respondent No.1 and without his consent, knowledge and notice, the Petitioner No.1 is trying to dispose of the property to Rajesh Prasad Gupta and thus it cannot be said that there was no material available against the Petitioners at the time of the registration of the complaint. Both the Counsels for the Respondents, therefore, prayed for the rejection of the present petition.

6. Having considered the rival contentions put forth on either side and on perusal of the record, what clearly reflects is that there are more than one agreement entered into by Petitioner No.1 as a seller of the said property. It is also reflected that there is also a categorical denial at the hands of Respondent No.1 in respect of signatures that he has put on the documents so relied upon by Petitioner No.1. In view of this specific averment at the hands of Respondent No.1, the complainant, it cannot be said that the Court below has committed any fault while ordering for registration of the complaint.

7. So far as the contentions and averments made by the Petitioners are concerned, those are all matter which has to be thrashed out in the course of recording of evidence and the Petitioners even would get the chance of rebutting the same at the time of arguments before framing of charge. These facts cannot be looked into by this Court in exercise of its powers under Section 482 of CrPC at this preliminary stage.

8. With the aforesaid observations, this Court is of the opinion that the present petition is totally bereft of merits and the same therefore deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge