

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on: 25/08/2017

Judgment delivered on: 18/09/2017

CRMP No. 801 of 2016

- Dr. Rekha Verma W/o Om Prakash Verma Aged About 52 Years R/o. Shanti Vihar Colony, Dagania, P.S. Dindayal Upadhyay Nagar, Post & Tehsil - Raipur, Revenue & Civil District Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh & Ors. Through, Secretary Department Of Home Affairs / Revenue, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District Raipur Chhattisgarh
2. Superintendant Of Police Economic Offence Wing, Raipur, Revenue & Civil District - Raipur Chhattisgarh
3. Investigating Officer Economic Offence Wing, Raipur, Revenue & Civil District - Raipur Chhattisgarh
4. Collector Of Stamp Raipur Revenue & Civil District - Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Surfaraj Khan, Advocate.
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For Respondents/State	:	Shri Ashish Shukla, Govt. Advocate.
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Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

18/09/2017

Heard.

1. This petition has been brought under Section 482 of Cr.P.C. by the petitioner with a prayer to quash the criminal proceeding pending in Special Sessions Case No.106/2016 before the Court of learned Special Judge (Prevention of Corruption Act) and the first Additional Sessions

Judge, Raipur for offence under Sections 13 (1) (d) and 13 (2) of the Prevention of Corruption Act, 1988 (for short 'the Act, 1988') read with Sections 467, 468, 471 and 120-B of Indian Penal Code (for short 'IPC').

2. Brief facts of the case are that on the basis of confidential information received, the Economic Offences Wing, Raipur, conducted a raid at the residence of O.P. Verma, Dy. Collector, Jashpur, who happens to be the husband of petitioner. Twenty one numbers of registered sale-deeds were found in possession of O.P. Verma in which the petitioner has been shown as purchaser of the land concerned. All the sale-deeds were registered in the office of Sub-Registrar, Tilda, co-accused in the case Mehar Lal Patel. It was found that the stamp duty paid in the said sale-deeds were lesser than the price of the land according to the current market rates and thereby loss to the State Ex-chequer has been caused. It was also found that the stamp papers used for registration of the sale-deeds were forged and fabricated as the stamps used did not tally with the sale made by any of the authorised stamp vendors. Offence under Sections 13 (1) (d) and 13 (2) of the Act, 1988 was registered against O.P. Verma, husband of the petitioner separately. On the basis of findings arrived at in the investigation, that petitioner was party to the registration of sale-deeds in which forged stamp papers were used and thereafter a correction deed was also registered in the same office, transferring the land to Ruchi Agro Cam Private Limited. This transfer deed was executed and registered on a stamp of Rs.20/- only and again loss to the Government Exchequer has been caused by the petitioner and co-accused in this case. On the basis of these findings, FIR was registered against the petitioner and co-accused for offence under Sections 13 (1) (d) and 13 (2) of the Act, 1988 and Section 120-B of IPC.

3. It is submitted by learned counsel for the petitioner that petitioner is victimized and has been falsely involved in the instant criminal case consequent to the proceeding against her husband O.P. Verma as the offences charged are in connection with causing loss to the Government Revenue due to non-payment of stamp duty. He further submits that sanction for prosecution of the petitioner has not been obtained in the present case, whereas as per Section 70 of Indian Stamp Act, 1899 (for short 'the Act, 1899') for prosecution of any offence prior sanction is necessary. It is submitted that from perusal of the entire record it would be clear that no offence much less the offences under Section 13(1)(d) read with Section 13(2) of the Act, 1988 and Sections 467, 468, 471 and 120-B of IPC are made out against the petitioner and therefore the continuation of criminal proceeding against the petitioner shall be a clear abuse of the process of law. Reliance has been placed on the judgment of ***State of M.P. Vs. Rajeev Jam***, in **2001 (4) MPHT 58**.

4. Learned counsel for the State submits that this petition is not maintainable as there are material against the petitioner which are sufficient for her prosecution in the criminal case. It is also submitted that the ground raised that sanction under Section 70 of the Act, 1899 shall be required, is misconceived as the sanction under Section 70 of the Act, 1899 shall be required only when the offences alleged to be committed under the same act. Such sanction shall not be required for offence under Sections 13(1)(d) and 13(2) of the Act, 1988 and under the provisions of Indian Penal Code. It is also submitted that petitioner has option to raise all these grounds before the trial Court praying for discharge. Thus, it is not a case in which this Court should exercise its

inherent jurisdiction to grant any relief to the petitioner. It is well settled in ***State of Bihar Vs. Murad Ali Khan & Others***, reported in **(1988) 4 SCC 655**, ***Radhey Shyam Khemka & another Vs. State of Bihar***, reported in **(1993) 3 SCC 54** that High Court will exercise inherent jurisdiction should not usurp the jurisdiction of the trial Court. Similarly it was held in ***Janata Dal vs H.S. Chowdhary And Others***, reported in **(1992) 4 SCC 305**, ***State of M.P. Vs. Awadh Kishore and others***, reported in **AIR 2004 SC 517** and ***Manjula Sinha Vs. State of U.P. & Others***, reported in **2007 AIR SCW 4555** that inherent power should not be exercised to stifle a legitimate criminal prosecution. Further, it is well settled that the inherent jurisdiction under Section 482 of Cr.P.C. has to be exercised sparingly in exceptional cases only.

5. On perusal of all the documents in the charge-sheet, which prosecution intends to rely for prosecution of the petitioner, without commenting on the substance of the case against petitioner, it appears that petitioner has the option and remedy available to pray before the trial Court for discharge and on failing to obtain an order of discharge, she shall be at liberty to move this Court by way of bringing a revision petition against that order. Hence, it is not a case which can be said to be an exceptional case warranting interference in exercise of extraordinary inherent jurisdiction of this Court.
6. Accordingly, this petition is dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
 JUDGE