

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 1151 of 2016**

Firoj Khan S/o Sikandar Khan Aged About 30 Years Occupation- Advocate R/o Ward No. 07 Lalpur Road Bagbahara Police Station Mahasamund, Chhattisgarh.

---- Petitioner**Versus**

1. Bharatlal Banjare (B.L.Banjare) Occupation Government Service Presently Bhu Abhilekha Branch Raipur (Ex S.D.M Mahasamund) District Mahasamund, Chhattisgarh.
2. Arshad Khan Khairani S/o Abdul Kadar Khairani Aged About 30 Years Occupation Bussinessman.
3. Jayab Khairani S/o Abdul Kadar Khairani Occupation Private Service
4. Abdul Kadar Khairani S/o Dawood Abdul Gani Khairani (Not Mention In Impugned Order) Occupation Advocate, aged 65 years.
No. 2 to 4 are R/o Behind Civil Line Police Station & District Mahasamund, Chhattisgarh.
5. State of Chhattisgarh Police Station Mahasamund District Mahasamund, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Hemant Kesharwani, Advocate.
For respondent No.1	:	Shri Vikas Pradhan, Advocate.
For respondent No.2to4	:	Shri Vikram Dixit, Advocate.
For Respondent/State	:	Shri Ashok Swarnakar, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****02/02/2017**

1. The present petition under Section 482 CrPC has been preferred challenging the order dated 20.07.2016 passed by the Additional Sessions Judge (FTC), Mahasamund, in Criminal Revision No.H-12/2015. Vide the said order, the court below has upheld the order of Judicial Magistrate First Class, Mahasamund, dated 02.02.2015, who

had rejected the complaint filed by the petitioner under Section 156(3) CrPC.

2. The facts relevant for adjudication of the case at this juncture is that, the dispute revolves around the property which originally stood in the name of one Kamla Bai W/o Ramlal. The property was situated at P.H. No.140 and Khasra numbers were 1049,1052,1077 and 1078, total measuring 1.26 Hectares. It is said that the said property was subsequently sold by Kamla Bai to one Bhog Singh S/o Heth Singh Gond. Sale consideration for the said transaction was made by the respondent No.3. The sale deed was duly executed on 13.12.1999 in this regard transferring the property in name of Bhog Singh. Subsequently, an application under Section 113 of Land Revenue Code was filed by the respondents No.2&3 before the Sub Divisional Officer (for short SDO) seeking for a correction in the revenue records and for entering name of respondents No.2&3 in respect of aforementioned property. The said application was initially allowed on 10.08.2002. Later on, the said order dated 10.08.2002 was revised by the SDO and the entry made in the revenue records were restored back in the name of Bhog Singh. Subsequently, the present petitioner is said to have filed an application under Section 156(3) CrPC before the JMFC, Mahasamund seeking for registration of offence under Sections 420,467,471 and 120-B IPC. The said complaint was rejected by the JMFC vide order dated 02.02.2015 holding that no cognizable offence is made out from the averment made in the complaint. Further, it was also held by the JMFC that in case if the

allegation against the respondents as raised by the complainant is that of filing of false affidavit before a court of law, it is the concerned court which has to take cognizance of offence under Section 195(1) CrPC.

3. The said order dated 02.02.2015 was subjected to challenge by way of revision which was registered as Criminal Revision No.H-12/2015 and the revisional court also vide its order dated 20.07.2016 has upheld the order of JMFC rejecting the complaint. The revisional court also reached to the conclusion that from the averment made in the complaint, no cognizable offence is made out as such. That the offence, if at all, is committed, the cognizance has to be taken by the same court before whom false affidavit has been filed. It is these two orders which are under challenge in this petition.
4. Learned counsel appearing for the petitioner submits that prima facie there is ample evidence which was brought before the Magistrate to show that there was a false affidavit filed on behalf of the respondents No.2&3. According to him, the SDO has subsequently revised its own order itself is sufficient proof to show that there was false affidavit filed by the respondents No.2&3. Therefore, there was a clear offence made out and established before the court below and the Magistrate should not have rejected the complaint case. Rather he ought to have ordered for registration of complaint and also for further investigation and appropriate criminal proceeding against the respondents No.2&3.
5. Learned counsel appearing for the respondents however opposes the petition on the ground that the petitioner has no locus to file complaint as he is neither an aggrieved party nor is involved directly or indirectly

in the said transaction. He is neither beneficiary nor looser by virtue of the said transaction. It was also pointed out by the respondents that both the orders have been rightly passed by the two courts below rejecting the complaint filed by the petitioner.

6. Having considered the rival contentions put forth on either side what clearly reflects from the pleadings of the parties is the fact that the present petitioner is a Lawyer by profession and that the alleged transaction that took place was of the year, 1999 i.e. sale deed was executed in the name of one Bhog Singh. The order of the SDO entering the names of respondents No.2&3 in the revenue records was of the year, 2002. The said order was also revised on 10.08.2002 restoring the revenue records in the name of Bhog Singh. Though the revised order of the SDO was of the month of August, 2002, no explanation has been given by the petitioner as to why he did not file the complaint on an earlier occasion as the record shows that complaint under Section 156(3) CrPC was filed after more than a period of 12 years. Once the order of the SDO stands revised on 10.08.2002, the alleged illegality which was said to have been committed also stands restored to its original position.
7. Another aspect which cannot be brushed aside is the fact that none of the affected parties have ever raised any grievance against the alleged act done by the respondents No.2&3. None of the family members of Bhog Singh has questioned the act committed on the part of the respondents No.2&3 and that after the order of the SDO revising the entry made in the revenue records, it appears that the family

members of Bhog Singh also have not pursued the matter any further.

8. Accordingly, in the opinion of this court, the view taken by the two courts below does not warrant any interference. Thus, the petition being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder