

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1472 of 2017**

- Smt. Suman Dheer W/o Shri B. K. Dheer Aged About 70 Years Founder Director Of Gyan Ganga Education Institute Private Limited R/o M I G 19, Indrawati Colony, Raipur, District Raipur, Chhattisgarh., Chhattisgarh

---- Petitioner**Versus**

1. Sachin Shandilya S/o Shri Upendra Shandilya, Aged About 46 Years R/o S 25, Rajeev Nagar, Raipur, Post Shankar Nagar, Police Station Civil Lines, District Raipur, Chhattisgarh., Chhattisgarh
2. Smt. Manju Shandilya W/o Shri Upendra Shandilya Aged About 68 Years R/o S 25, Rajeev Nagar, Raipur, Post Shankar Nagar, Police Station Civil Lines, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Ravindra Pal Singh S/o Late Ramprasad Singh, Aged About 68 Years R/o 4, Golden House, Shankar Nagar, Raipur, Police Station Civil Lines, Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Respondents

For the Petitioner	:	Shri Kishore Bhaduri with Shri Roop Naik, Advocates.
For the Respondents	:	Shri Sunil Pillai with Shri Sumit Raghuvanshi, Advocates.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****06.03.2018**

1. Heard on Admission.
2. It is submitted by learned counsel for the petitioner that company petition bearing No.06/2003 was filed by this petitioner before this Court against the respondents herein for winding up of the company

and appointment of Court Receiver. Reply to the said petition was filed by the respondents herein annexing two documents dated 1.6.1996, 11.6.1996 & 25.09.1998, namely Minutes of Meeting of the Board of Directors of Gyan Ganga Educational Institute (P) Ltd.) perusal of the minutes of meeting dated 25.9.1998 filed along with this petition, in particular Para-8 & 14, would show that documents dated 1.6.1996 & 11.6.1996 are forged & fabricated documents. Thus, it is apparent that the respondents have filed false documents before this Court making themselves liable to be prosecuted and punished as per law. Hence, on the aforesaid ground it has been prayed that an order may be passed directing initiation of proceedings against the respondents under Section 340 of Cr.P.C.

3. In reply learned counsel for the respondents submits that the present petition is not maintainable in view of the judgment of Supreme Court in **Ashok Kumar Agrawal Versus Union of India and Ors**, in CRA No. 1842/2013, order dated 22.11.2013, wherein it was observed that the complaint filed under Section 195 (1) (b) of Cr. P.C. after a lapse of four years should not be entertained. Reliance is also placed on the judgment of **Iqbal Singh Marwah and Anr. Versus Meenakshi Marwah and Anr**, reported in **2005 (4) SCC 370**, in which the Supreme Court relying on the judgment of **Sachida Nand Singh Versus State of Bihar**, reported in **1998 (2) SCC 493**, has held that where after commission of an act of forgery, the document is subsequently produced in Court, Section 195 (1) (b) (ii) of Cr. P.C, does not come into play and in such a case, a complaint can be filed by the aggrieved person, and there is no requirement for the concerned Court to take cognizance and proceed accordingly.

4. As it appears that company petition was filed in the year 2003, whereas the documents alleged to have been forged in the year 1998. Even so, when the documents were filed before the Court in the company petition, there is no such allegation that any such forgery & fabrication has taken place when the documents were in custodia legis. Subsequent to filing of this petition and during the pendency of said petition, hence, no such inference can be drawn that alleged offence of forgery of said documents has been committed subsequent to filing of those documents before the Court. Hence, under these circumstances, I am of the view that the law laid down by the Supreme Court in **Iqbal Singh Marwah (supra)** is squarely applicable in this case.
5. On due consideration it is found that this petition is devoid of merits, the same is liable to be dismissed and it is hereby dismissed at the motion stage itself.

Sd /-

(Rajendra Chandra Singh Samant)

Judge