

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No.395 of 2018**

- Sundar Das Rohra S/o Late Paras Ram Rohra Aged About 48 Years R/o Imlipara, In Front Of Muslim Saray, Police Station Civil Line, Bilaspur Tehsil Bilaspur Revenue And Civil District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Terasbai W/o Late Shri Baliram Aged About 55 Years By Caste Satnami And R/o Village Sendri, P. S. Koni, Tehsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Balwant S/o Late Shri Itwari Aged About 37 Years By Caste Satnami And R/o Village Sendri, P. S. Koni, Tehsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Ranjeet S/o Late Shri Itwari Aged About 37 Years By Caste Satnami And R/o Village Sendri, P. S. Koni, Tehsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondents**PRESENT:-**

Shri Surfaraj Khan, counsel for petitioner/s.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****07/09/2018**

1. This petition under Section 482 of Cr.P.C. is directed against the order of dismissal of complaint and the order passed in criminal revision against the order of complaint.
2. The petitioner herein filed a complaint against the respondents on the allegation that the parties had entered into an agreement of sale of land and the petitioner has paid Rs.5 Lakh as advance to the respondents. In the complaint, it was stated that later on, despite payment made by the petitioner, the respondents did not proceed to execute the sale deed by receiving the balance amount and instead, they sold out the land to a third party and thereby cheated the complainant. In the complaint, it was also

stated that though the petitioner insisted for receiving balance amount and execute the sale deed, but, the respondents were annoyed, hurled abuses and threatened him.

3. After recording the preliminary statements of petitioner-complainant and his witnesses, the Magistrate did not find it to be a fit case for taking cognizance and dismissed the complaint. Aggrieved by the order of dismissal of complaint, criminal revision was preferred, which was also dismissed.

4. Learned counsel for the petitioner argued that material on record and the statement of complainant and his witnesses, prima facie discloses commission of offences and therefore, a triable case is made out. It is argued that the Magistrate or the Revisional Court ought not to go into the aspect of appreciation of evidence, but only to satisfy itself whether prima facie case is made out or not. He further submits that the complaint was not only on the aspect of cheating, but also on the allegations of abuses and threat, which were not given due consideration.

5. I have heard learned counsel for the parties and perused the records.

6. In the entire complaint, in respect of the allegations of cheating, it has been stated that there was agreement between the parties and advance was paid by the petitioner to the respondents and instead of executing the sale deed in favour of the petitioner-complainant by receiving the balance amount, sold the property to a third party. Neither in the complaint nor in the statement of witnesses, it has been stated that as to how the respondents, at the very inception of the transaction, nurtured the dishonest intention to cheat. It is not a case where the respondent without there being any property in their hand entered into agreement of sale or having already sold property to a third property, again entered into an agreement suppressing the fact of the previous sale.

7. Therefore, in view of the decision in the case of ***Devendra and others vs. State of Uttar Pradesh and another***¹, no interference is called for in the view taken by the Magistrate and the Revisional Court. Learned counsel for the petitioner also raises grievances that the Court did not examine that against the other party, there were

¹ (2009) 7 SCC 495

allegations that the petitioner was threatened and hurled abuses.

8. I have gone through the contents of the complaint and the preliminary statements. Neither in the complaint nor the preliminary statement of the complaint, the time date and place of alleged threat and abuse has been specifically stated. Therefore, in the considered opinion of this Court, the dismissal of the complaint does not result in any miscarriage of justice to say that prima facie case having been made out.

9. In view of above, the petition is dismissed. Records of the Court below be sent back forthwith.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E