

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 577 of 2018

S.K. Bhoumik (Shyamal Kumar Bhoumik) S/o Gopalchand Aged
About 48 Years R/o Block No. 20/39, Mana Camp, Raipur Teh. And
Dist. Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The District Magistrate, District
Durg Chhattisgarh
2. Mrs. Snigdha Rai W/o Shyamal Rai Aged About 42 Years R/o
MIG Colony 1/356 HUDCO, Bhilai, Teh. And Dist. Durg
Chhattisgarh

---- Respondents

For petitioner – Shri J.K. Gupta, Advocate.
For State-Smt. Astha Shukla, PL.
For respondent No.2- Shri Pramod Verma, Sr. Advocate with Shri
Virendra Verma, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

24/07/2018

Heard.

1. Instant petition is against the order dated 6/01/2018 passed in
Criminal Revision No.225/2017.
2. Case of the petitioner is that complaint was filed by the petitioner
that his wife Swapna Bhoumik died on 11/08/2016. She was holding an
account in UCO Bank, Civic Centre, Bhilai and it was alleged that at the
time of death she was living with her father and sister respondent No.2. It
is alleged that after death of Swapna Bhoumik her ATM card which was of
the bank was used to withdraw amount from her account in between
15/08/2016 to 19/08/2016 and Rs.1,42,000/- was withdrawn by
respondent No.2 for which complaint was made under section 156(3) of
the Cr.P.C. and police report was called and thereafter application under
section 156(3) of Cr.P.C. was dismissed on 11/09/2017.

3. Learned counsel for the petitioner submits that respondent No.2 admitted the fact that she has withdrawn the amount despite that offence has not been registered, therefore both the court below fell into error in not registering the case.

4. Perusal of the order would show that complaint under Section 156(3) of the Cr.P.C. was dismissed on the ground that deceased has appointed nominee namely Supriti Bhoumik to operate the account. Admittedly, it appears that no complaint is made for withdrawal of the money against respondent No.2 who is sister of the deceased. According to the petitioner himself no amount was withdrawn by respondent No.2. Therefore, at this stage it cannot be presumed that respondent No.2 has committed the offence. Enquiry report sought from the police further shows that complainant was residing separately from his wife/deceased and nominee of the account of the deceased were S.R. Rai father of the deceased and Supriti Boumik the daughter. Order further reflects that amount of Rs.1,50,000/- fixed deposit was made in the name of daughter after expenditure of the rituals of the deceased. Prima facie it appears that no document was filed that the petitioner was nominee of the account and admittedly prima facie there is no complaint was made by nominee of the account. In view of this, finding of both the court below cannot be stated to be illegal or on unfounded facts.

5. Accordingly, the petition has no merit and it is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE