

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 678 of 2018**

1. Awadhraj Yadav, S/o. Late Nand Kishore Yadav, Aged About 32 Years, R/o. Qtr No. 2-A, Road No.14, Behind Lavkush Premises, Sector-II, Bhilai, Tahsil & District Durg Chhattisgarh
2. Kirtichand Pradhan, S/o. Late S.K. Pradhan, Aged About 52 Years, R/o. Asharam Bapu Nagar, Jamul, P.S. Jamul, Tahsil & District Durg Chhattisgarh

**---- Petitioners****Versus**

1. Smt. Amita Sahu, W/o. Shri Tulsiram Sahu, Aged About 58 Years, R/o. Village & Post Dhaur, Tahsil & District Durg Chhattisgarh, Presently Resided at Street No. EMR, Quarter No. 4-C, Sector-4, Bhilai, Tahsil & Distt. Durg Chhattisgarh
2. State Of Chhattisgarh, Through the District Magistrate, District Durg Chhattisgarh

**---- Respondents**


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For Petitioners : Mr. D.Kushwaha, Advocate

For Respondent-State : Mr. Ashish Shukla, Dy. A.G.

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**Hon'ble Shri Justice Goutam Bhaduri****Order On Board****18.07.2018**

Heard

1. The present petition is against the order dated 27.01.2018 passed in Criminal Revision No.135/2017 by the First Additional Session Judge, Durg. By such order, the revisional Court has affirmed the order dated 06.03.2017 whereby the offence has been registered under Section 420, 467, 468, 471 & 120-B of I.P.C.
2. The facts of this case are that the respondent No.1 Anita Sahu filed a complaint before the trial Court that she purchased a land at village Kurud from one Pooja Dongre bearing Khasra No.1430/6, 1431/6 & 1432/5 admeasuring 3200 sq.ft. It was contended in the complaint that the said dealing was routed through the present petitioners and few others, as they

were working as brokers. The sale deed was executed on 28.11.2011 and the sale consideration of Rs.12,80,000/- was paid. Subsequently, it revealed that at the time of registration instead of Pooja some other lady was produced as Pooja Dongre. It is further alleged that before execution of the sale deed, the land which was demarcated and sold to the purchaser when the complainant wanted to take over the possession, it revealed that it belong to some Prem Singh Bhandari and when the application was filed for demarcation of land, eventually the same could not be done. Having confronted with those facts when the petitioners were driven to corner initially Rs.8,00,000/- was returned and two cheques were given of the remaining amount but thereafter the cheques were also obtained by fraud and self-cheque was given. When the self-cheque was deposited for clearance, it came back with an endorsement that no amount was there in the account. Thereby, the petitioners along with other co-accused in connivance with each other and in furtherance of common intention deceived the complainant.

3. The learned Court below after evaluating the evidence, registered the offence under Section 420, 467, 468, 471 & 120-B of I.P.C.
4. Learned counsel for the petitioners submits that the identity of the property was in dispute and an amount of Rs.8,00,000/- was returned and few cheques are bounced, therefore, the offence under Section 420, 467, 468, 471 & 120-B of I.P.C. is not made out for which a different procedure has been prescribed under Section 138 of the Negotiable Instrument Act. Therefore, the present complaint is required to be quashed.
5. As against this, the complaint if read in between the lines, it shows that initially by showing different land, the sale deed was executed that too not from the actual owner but instead of some fictitious person was personified as seller and the amount of sale consideration was received. Thereafter, it is alleged that the part of the amount was returned and the cheque which was

given for the rest of the amount got dishonoured. Taking into totality of this case, at this stage, it cannot be said that the offence so registered is without any *prima facie* evidence. At this stage, the Court cannot go into details of decisive evidence or accept the defence raised by the petitioners as gospel truth so as to drive out the complainant from the criminal Court. The facts of this case holds the sway at the moment in favour of the respondent/complainant, therefore, it is not a case where the powers under Section 482 of Cr.P.C. has to be exercised.

6. Accordingly, the petition has no merit and is dismissed at the admission stage.

**Sd/-  
Goutam Bhaduri  
Judge**

Ashok