

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1207 of 2018**

- Pitambar Singh Thakur S/o Chandrika Singh Thakur Aged About 60 Years
R/o- Mathpurena, Police Station- Tikrapara, Tahsil And District- Raipur,
Chhattisgarh

---- Petitioner

Versus

1. Smt. Kiran Singh Thakur @ Kiran Narayan Lal Kannauje Aged About 56
Years R/o- Khasra No. 59/48, Mathpurena, Shyam Prasad Mukharjee,
Raipur, District- Raipur, Chhattisgarh
2. Deceased Smt. Nirupma Singh Deleted
3. State of Chhattisgarh Through- P.S. Tikrapara, Raipur, District- Raipur,
Chhattisgarh

---- Respondents

For Petitioner	:	Shri G.M. Hasan, Advocate
For Respondent/State	:	Shri Sangharsh Pandey, Dy. GA for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****04/07/2018**

1. Heard.
2. The instant petition is against the order dated 15.03.2018 whereby the order dismissing the complaint filed by the petitioner was affirmed by the Second Additional Sessions Judge in Criminal Appeal No.211/17.
3. The facts of this case are that the petitioner filed a complaint under Section 200 Cr.P.C. alleging that the respondent has committed offence punishable under Sections 420, 120 B, 463, 464, 467, 468, 469, 470 & 471 IPC on the ground that his father Chandrika Singh Thakur, who was having a property

at Village Muthpuraina on 13.08.1993 executed a WILL by which the entire property was bequeathed in his favour, however, the respondent on the basis of forged gift deed claiming property to be their own and filed a civil suit and it was decreed.

4. It is contended that the said gift deed being forged, the trial Court should have taken cognizance when the complaint was filed. It is further contended that the decree even if it is passed and earlier up till High Court finding given in respect of the gift is in a separate civil matter and the respondent herein has preferred a criminal complaint. It is stated that the criminal case and the civil case are two different, as such irrespective of the finding given in the civil case, the criminal Court should have taken cognizance and registered the complaint. He further submits that the proper parties were also not added who had given a finding that the gift deed is correct, therefore, the order passed by both the Courts below is grossly misconceived and the petition is liable to be allowed.
5. Perused the order of the Court below. Perusal of the order would reflect that a gift deed which is said to be in favour of the respondent was subject of litigation in between the parties in the civil Court up till the Second Appeal bearing Second Appeal No.302/10, which was decided by the High Court, the said gift deed was held to be valid whereby the property was gifted in favour of the respondent, therefore, the genuineness and validity of the WILL has been affirmed in different stages of litigation up till the High Court and the said finding is not under challenge. It appears that after the order of the second appeal was passed on 31.07.2012 again a complaint was filed on 20.05.2013 going back to the earlier route by claiming that the finding in respect of the gift deed is forged as it is outcome of fraud and complaint was filed. Admittedly, the finding about the gift deed up till second appeal that it

is valid is not under challenge, therefore, it appears that the entire effort is completely frivolous and misconceived and tainted with all malafide with a brutal expectation to get over the WILL deed for which a finding is already existing.

6. On appreciation of the fact it appears that the entire effort by the petitioner is only to bypass the orders passed in the civil suit and finding in respect of the gift deed which remained in favour of the respondent up till the second appeal. The entire proceedings have been commenced can be termed as a mischievous, therefore, dismissal and the order passed by the Court below cannot be faulted.
7. The petition being devoid of merits is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu