

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1361 of 2018

Manish Bansal S/o Shri Puranmal Bansal Aged About 38 Years
Occupation Business, R/o Kharsiya, P. S. Kharsiya Tehsil
Kharsiya District Raigarh Chhattisgarh. --- **Petitioner**

Versus

State of Chhattisgarh through Station House Officer of Police
Station Kharsiya Raigarh District : Raigarh, Chhattisgarh
--- **Respondent**

For the applicant : Mr. Saurabh Dangi, Advocate.
For the State : Mr. Ashish Shukla Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

19.07.2018

1. The present petition is for quashing the FIR No.412 dated 26.09.2017 with respect to the incident related to 2012.
2. The complaint was filed by Tej Kunwar, daughter of Thanuhar u/ss 420, 467, 468, 471, 120-B of IPC alleging that certain part of the property which belonged to the complainant was purchased by the petitioner by obtaining forged consent letter and by putting forged thumb impression or affixing photographs of the complainant in the sale deed and the Registry was done on 15.02.2012 in connivance with other accused.
3. Learned counsel for the petitioner would submit that initially when the complaint was made, the averments in the complaint would show that a sale deed on the basis of the fabricated document i.e., consent deed, was

registered. However, when the same was sent for investigation by the JMFC, the statement of Tejkunwar was recorded wherein she stated that in respect of 50 decimal land which was held by her she entered into an agreement to sell the same for a sale consideration of Rs.6 lakhs and Rs.2 lakhs was received as advance, therefore, it would amount to a civil dispute. It is further contended that the petitioner is in possession of a document of expert which shows that she herself has executed the sale deed. However, after lapse of long time, as an arm twisting method, the FIR has been lodged which needs to be quashed.

4. Learned counsel for the petitioner relies on *(2009) 3 SCC 78 V.Y. Jose v. State of Gujrat* and would submit that the circumstances would go to show that there is no *mens-rea* of cheating as otherwise amount of Rs.2 lakhs as advance would not have been paid.
5. A perusal of the FIR and the statement of complainant which was recorded shows that the complainant has stated that in the sale deed which was executed in respect of the share of her land, the forged thumb impression and photographs were enclosed. The statement of Tejkunwar would also show that when her nephew Umesh has told her that the share of her land i.e., 50 decimal was given, she went to Patwari and the Patwari also told her that that 50 decimal land was left for her share. Thereafter the said land was proposed to be sold to the petitioner i.e., Manish Bansal for a sale consideration of Rs.6 lakhs and out of the total sale

consideration of Rs.6 lakhs, Rs. 2 lakhs was paid and it was told by the petitioner that remaining amount will be paid at the time of registration. Thereafter when she went to the petitioner with a request to execute the sale deed, it was revealed that the entire sale deed has been executed. Therefore, the question which falls for consideration is that whether the forged sale deed by putting the fake thumb impression & photographs was executed as the complainant declined to have received the remaining sale consideration. The allegations which prima facie appear on the face of record cannot be shelved.

6. Reading of the FIR further do not disclose the fact that even after acceptance of the FIR, no offence is made out. The interference at this stage by giving a finding by this Court will arrest the investigation itself. The State Authorities are free to investigate the offence so alleged after considering the facts and the statements in its entirety.
7. Taking into totality of the facts, I am not inclined to quash the FIR as it is too premature. The petition is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**