

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 409 of 2017**

Dinesh Singh S/o Late Shri R.D. Singh, Aged About 50 Years
Partner Kapil Oxy Nitro Company, Shivaji Nagar, Khursipar, G.E.
Road, Bhilai, District Durg, Chhattisgarh.

---- Petitioner

Versus

S. Ramesh, Director, Oxy Plants India Pvt. Limited 101, Kempanna
Garden, Nest To Ninth, B M T C, Depot, 4th Phase, Peenya
Industrial Area, Bangalore 560058 (Karnataka)

---- Respondent

For petitioner – Shri T.K. Tiwari, Advocate.
For respondent – Shri Amit Kumar, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order****12/03/2018**

1. Instant petition is against the order dated 30/11/2016 whereby the application filed by the petitioner under Section 156 (3) of Cr.P.C. has been dismissed.
2. Learned counsel for the petitioner submits that gas plant was ordered to the respondent wherein amount of Rs.20 lakhs was paid and subsequently when the petitioner visited the site given by the respondent nothing was found, thereby fraud has been played. Consequently, enquiry which was prayed for should have been allowed.
3. Learned counsel for the respondent opposes the same.
4. Perused the application under section 156 (3) of Cr.P.C. which purports that on the basis of purchase order dated 14/06/2013 and for purchase of the plant equipment amount of Rs.20 lakhs was paid in advance to the respondent. Complaint further purports that while construction was being made it was objected by the local residents of the village wherein plant was erected i.e. at Bihar. Having faced such difficulty immediately it was informed to the respondent but thereafter they did not return the amount. The non-existence of the office of the respondent is been denied by the contents

of the application under Section 156 (3) of Cr.P.C. wherein it is been stated that when complainant visited the office but competency was not found. Against this reply of the respondent would show that communication was made to the City Superintendent of Police, Bhilai on 19/05/2016 wherein they stated that after order of the gas plant was received advance was paid and subsequently when petitioner were to take delivery of the plant they did not take it on some reason or the other.

5. Taking into documents filed alongwith the petition and the reply, it appears that issue involved appears to be civil in nature in business transaction of the parties. Consequently, order of the Judicial Magistrate wherein enquiry has been denied under section 156 (3) of the Cr.P.C. cannot be said to be illegal without any jurisdiction.

6. Accordingly, the petition has no merit and it is dismissed. Petitioner shall be at liberty to take appropriate legal remedy.

Sd/-

(Goutam Bhaduri)

JUDGE