

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1769 of 2017**

Dinesh Chincholkar S/o Late Shri Padmakar Aawaji Aged About 63 Years Occupation Retired Tahsildar (The Then Tahsildar Kunkuri , District Jashpur), R/o Near Shafer School Dharam Prakash Chahal Kududand Bilaspur Civil And Revenue District Bilaspur Chhattisgarh.

---- **Petitioner**

Versus

State Of Chhattisgarh Through The Station House Officer Police Station Kunkuri Civil And Revenue District Jashpur Chhattisgarh.

---- **Respondent**

For petitioner- Shri Parasmani Shrivastava, Advocate.
For Respondent/State –Shri Ashish Shukla, Dy.A.G.
For intervener- Shri Harish Khuntia, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order****22/06/2018**

Heard.

1. Instant petition is to quash the criminal proceeding as also the order dated 31/10/2017 whereby charges have been framed.
2. One of the co-accused namely Kuber Patel has filed an application to pass an appropriate order on the ground that entire proceeding have been stayed and submits that entire case may be decided on merits as case is already on the stage of evidence.
3. The allegation is that one Pradeep Kujur submitted a forged order of the Commissioner and got the land allotted in his name i.e. khasra No.625/5 admeasuring 1.640 hectares and the present petitioner Dinesh Chincholkar has passed an order on 27/06/2013 to grant him ownership of the property. It is been alleged that said grant of land was on the basis of the forged document and the charges have been framed under sections 420, 467, 468 read with 34 of IPC. Initially charge sheet was filed against Pradeep Kujur, subsequently additional charge sheet was filed on

18/11/2016 against the petitioner. Return of the State would show that it is stated that the petitioner has passed an order whereby lease of the grass land i.e. government land has been granted in favour of the beneficiary Pradeep Kujur which was subsequently transferred to other person. Therefore, considering the reply it appears that nature of the allegation as to whether sanction was required or not can be adjudicated after evidence is adduced as it is mixed question of facts and law. If it is found that fraud is committed which can only be established by way of evidence during the course of trial. Then in such case necessity of sanction under Section 197 of Cr.P.C. may not arise as commission of fraud cannot be enveloped in official capacity.

4. Taking into facts and nature of the allegation as has been established by the State, I do not find any reason to continue with this petition. Further petitioner shall be at liberty to raise all his grounds before the court below during the course of trial so as to establish the fact that act done by him was in official capacity and therefore he is entitled to the protection under section 197 of Cr.P.C.

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

Sd/-

(Goutam Bhaduri)

JUDGE