

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 86 of 2017

Manohar Jethani, S/o. Late Dr. Varial Das Jethani, Aged About 48 Years,
R/o. Beside Kohinoor Hotel, Amardeep Talkies Road, Bans Tal, Raipur,
Chhattisgarh.

---- **Petitioner**

Versus

1. Mr. R.P. Mondol, (*Erstwhile Principal Secretary, Department Of Urban Administration & Development*), Presently Posted as the Principal Secretary, Department Of Forest & Environment Govt. Of Chhattisgarh, Mantralaya, Naya Raipur, Raipur, Chhattisgarh.
2. Mr. Ashok Chandrakar, Joint Director, Department Of Urban Administration & Development, Regional Office, Durg, Chhattisgarh.

---- **Respondents**

For Petitioner : Mr. Rajkamal Singh, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

11.01.2018

Heard

1. The instant petition is filed under Section 195 & 340 read with Section 482 of the Code of Criminal Procedure read with Section 193/120-B of the Indian Penal Code, claiming the following reliefs :
 - (1). *To please initiate the action under the provisions of section 195 (b) (iii) & 340(1)(3) of the Code of Criminal Procedure 1973 for prosecution of respondents for the offences punishable under section 193/120(B) of the Indian Penal Code 1860.*
 - (2). *To please send the matter for examination & trial before the Court of learned Judicial Magistrate First Class, Bilha, District Bilaspur, Chhattisgarh for further action under the provisions of section 340 of the Code of Criminal Procedure 1973.*

- (3). *To kindly make any other order that may be deemed fit and just in the facts and circumstances of the case including the costs to the petitioners.*
2. Learned counsel for the petitioner submits that while the earlier litigation was pending in W.P.(C) No.3334/2009 in that the submission was made on an affidavit by the State at para 10 in their reply that vide order dated 18.09.2000 a ban was imposed on giving land on lease under the Transfer of Property Rules, 1994 whereas the note sheet Annexure A-3 would show that the said ban was already released and thereafter different allotments were made to the persons in the year 2001, 2003 & 2005; therefore, he submits that false averments have been made in the affidavit by Ashok Kumar Chandrakar.
 3. Perusal of Annexure A-3 which has been made a basis for filing of this petition reads and makes a reference of a memo dated 18.09.2000, which records that at Nagar Palik Nigam Bhilai, the residential and non-residential plots of 38000 sq. meter may not be further granted by way of lease. Annexure A-3 reads and reiterates the said ban of 18.09.2000 and further recommend that three petitions are pending and apart from permission to release the ban was recommended for allotment of land and further note sheet was forwarded to the higher ups.
 4. Perusal of the Return filed in W.P.(C) No.3334/2009 at para 10 & 11, it is stated that ban was existing for grant of land on lease. Perusal of Annexure A-3 do not specifically point out that the ban was revoked by an order so as to supercede the earlier ban dated 18.09.2000. Even if any allotment has been made during such period of ban, criminal action cannot be invoked on the principles

of negative equality. No order has been placed to show that such ban to transfer the land by lease was specifically withdrawn.

5. In view of the above, the petition, being devoid of merit, is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok