

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr. M. P. No. 1420 of 2016**

Chandrashekhar Rajput, S/o Shri Ramratan Rajput, aged about 45 years, occupation – Service, Sub Engineer Irrigation Department, R/o Shiv Mandir Road Kahiragarh, P.S. - Khairagarh, Civil & Revenue Distt. Rajnandgaon (C.G.)

----Petitioner/complainant

Versus

1. Rajendra @ Bablu Dakaliya, S/o. Shri Kanhaiyalal Dakaliya, aged about 55 years, R/o. Gobajar Khairagarh, P.S. - Khairagarh, Civil & Revenue Distt. Rajnandgaon (C.G.)

2. State of Chhattisgarh, Through the District Magistrate, Rajnandgaon, Civil & Revenue Distt. - Rajnandgaon (C.G.)

---- Respondents

For Petitioner	:	Mr. Sunil Sahu, Advocate.
For Respondent No.1	:	Mr. Abhishek Pandey, Advocate.
For Respondent No.2	:	Mr. Anant Bajpai, PL

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/05/2019

(1) The petitioner filed a complaint under Section 200 of the Code of Criminal Procedure under Sections 418 & 320 of the Indian Penal Code (for short "IPC") against the respondent herein for taking cognizance stating inter alia though oral agreement to sell of the land was entered into by the respondent herein and obtained Rs. 1,71,000/- from the petitioner but the respondent herein did not execute the sale deed with regard to the said land and thereby cheated him and, therefore, he deserves to be punished and in support of the complaint, the petitioner examined himself and his wife Chandrakiran Rajput.

(2) The Additional Chief Judicial Magistrate, Khairagarh, District Rajnandgaon by its order dated 9.5.2013 dismissed the complaint finding that there is no sufficient ground for proceeding against the respondent herein. On criminal revision being preferred, the revisional Court upheld the order of trial Magistrate, against which instant Cr.M.P. has been filed.

(3) Learned counsel appearing for the petitioner/complainant would submit that both the courts below have erred in holding that there is no sufficient material for proceeding against the respondent herein under Sections 418 & 420 of the Indian Penal Code, therefore, the impugned order is liable to be set aside.

(4) On the other hand, learned counsel appearing for the respondents would support the impugned order.

(5) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and went through the record with utmost circumspection.

(6) A careful perusal of the complaint, it would appear that oral agreement to sell was entered into the petitioner and respondent No. 1 and there is no such written agreement to sell entered into between them. On appreciation for oral and documentary evidence available on record, the trial Magistrate has clearly recorded a finding that there is no sufficient material for proceeding against the respondent herein for commission of offence under Sections 418 & 420 of the Indian Penal Code, which has been affirmed by the revisional Court.

(7) After hearing learned counsel appearing for the parties and going through the record, I do not find any good ground to entertain this Cr.M.P. as finding recorded by both the courts below that there is no sufficient material for proceeding against the

respondent herein is neither perverse nor contrary to the record.

(8) Consequently, the petition under Section 482 of the Cr.P.C., being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

