

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 114 of 2019

(Arising out of order dated 26.02.2018 in WPCR-378 of 2017 passed by learned Single Judge)

- Navjeet Tuteja S/o Amreek Singh Tuteja Aged About 45 Years R/o Govind Naga, Beside United Blood Bank Raja, Talab Raipur District Raipur Chhattisgarh. **---- Appellant**

Versus

1. State of Chhattisgarh Through Chhattisgarh Superintendent of Police Raipur District Raipur Chhattisgarh.
2. Station House Office, Police Station Pandri Mowa, Raipur District Raipur Chhattisgarh
3. Amit Kumar Khandelwal S/o Ghanshyam DS Khandelwal Aged About 39 Years R/o C 601, Ashoka Ratan Vidhansabha Road Raipur Police Station Pandri Mowa, District Raipur Chhattisgarh **-----Respondents**

For Appellant : Shri Rahul Agrawal and Shri Sumit Singh Rathore, Advocates

For Respondents/State : Shri GS Patel, Government Advocate

**Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Judgment on Board**

Per Parth Prateem Sahu, J.
12.12.2019

1. Challenge in this appeal is to the order passed by the learned Single Judge in WPCR- 378 of 2017 wherein the Writ Petition filed by the private respondent was disposed off with a direction for a proper investigation by the concerned investigating agency in accordance with the direction issued by Hon'ble Supreme Court in **Lalita Kumari v. Govt. of U.P.** reported in **(2014) 2 SCC 1**.
2. Brief facts of the case are that the appellant herein has entered into an agreement with private respondent for sale of a piece of land for which advance of Rs.10 lakhs was given to him. Subsequently, when it was

revealed by the private respondent that the land was not recorded in his name and not belonging to him, he issued a cheque of Rs.10 lakhs for returning the advance amount to the private respondent. The said cheque when placed for clearance in bank, it was dishonoured, which made the private respondent to make a complaint against the appellant before concerned Police Station.

3. Private respondent filed Writ Petition before this Court mentioning that though he has filed a complaint before the concerned Police Station, but the Police Officer has not initiated proper investigation and not taken any action against the appellant herein.

4. Learned Single Judge considering the facts and circumstances and also taking note of the law laid down by Hon'ble Apex Court in the matter of **Lalita Kumari (supra)** held as under :

“Considering the above law laid down by the Supreme Court, the writ petition is disposed of with a direction to the concerned police to investigate the matter in accordance with law laid down by the Supreme Court in **Lalita Kumari (supra)** and submit the report before the competent criminal Court.”

5. Learned counsel for the appellant submits that the learned Single Judge passed an order detrimental to the interest of appellant without affording opportunity of hearing to him. There is violation of principle of natural justice. Writ Court might not to have exercise its writ jurisdiction and ordering for registration of FIR when there is remedy available to the

private respondent/petitioner before appropriate forum and under other legislation. He places his reliance on ruling of Hon'ble Supreme Court in the matter of **Sakri BSU Vs State of Uttar Pradesh** 2008 (2) SCC 409 and **Prinka Shrivastva and others Vs State of Uttar Pradesh** 2015 (6) SCC 287.

6. We have perused the records as well as the order passed by learned Single Judge. Learned Single Judge in the order has not directed for registration of FIR but only directed to investigate the complaint in accordance with law by referring to para 120 of **Lalita Kumari** (supra) case. In the impugned order no opinion has been expressed by the Court with regard to commission of offence, in fact, it is left open for the investigating agency to act on the complaint and to take appropriate steps in accordance with law.

7. Case law relied upon by the learned counsel for the appellant is entirely on different set of facts. In case of **Sakri Basu** (supra), death of a Major in Army, in course of enquiry, was found to be a suicidal death and even second Court of enquiry also came to same conclusion. The High Court disposed off the writ petition directing investigation by CBI. The Hon'ble Supreme Court in the above circumstances has held that material on record does not disclose a *prima facie* case calling investigation by the CBI and further the GRP Mathura has already investigated the crime. In the second case ie case of **Prinyanka Shrivastava** (supra), the case is of a housing loan transaction Punjab National Bank Housing Finance Limited. The loan a/c was declared as NPA, Notice under Section 13(2) of

Security Interest Act, 2002 was issued to Borrowers against which Writ Petition was filed and the same came to be dismissed. It is thereafter, a criminal complaint is filed. In the facts of that case, Hon'ble Supreme Court quashed the order of registration of FIR.

8. Facts of present case are different from the cases relied upon by the appellant and they could not be made applicable to the facts of present case. It is not the case of appellant that earlier any investigation or enquiry has already taken place etc., but his case is only that appellant received advance amount against agreement to sell same piece of land which subsequently found to be not executable and he issued cheque to return the advance amount which was dishonoured.

9. In view of above discussion, we do not find any infirmity or illegality in the impugned order of Writ Petition.

10. The Writ Appeal being devoid of merit which is liable to be and it is hereby dismissed. However, the appellant is at liberty to approach and file appropriate proceedings before the competent forum for redressal of his grievance, if any.

11. It is made clear that the judgment passed in WPCR-378 of 2017 may not be taken for consideration as this Court has formed any opinion with regard to the merits of the complaint made by the private respondents.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge