

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Misc. Petition No.945 of 2019**

Dnyaneshwar Namdev Bhagat, S/o. Namdev Maruti Bhagat, Aged about 50 years, R/o. A-263, Vasant Vihar Colony, Bilaspur Tahsil & Distt. Bilaspur (CG)

---- **Petitioner****Versus**

Lakhan Bhojraj Sonwane, R/o. 34, Shri Apartment, Shree Vihar Colony, Hinangna Road, Rana Prarap Nagar, Nagpur (MH)

---- **Respondent**


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| For the Petitioner | : Shri Faiz Kazi, Advocate |
| For the Respondent | : None                     |

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**Hon'ble Shri Justice Ram Prasanna Sharma****Order On Board****05.11.2019.**

1. Heard on application for grant of leave to appeal under Section 378(4) of CrPC.
2. This petition has been preferred against judgment of acquittal dated 23.10.2018 passed by Judicial Magistrate First Class, Bilaspur (CG) in Criminal Case No.1850/2013 wherein the said Court acquitted the respondent for the charge under Section 420 of the Indian Penal Code, 1860.
3. In the present case, one Vijay Kumar submitted surety paper for releasing of present respondent in a charge under Section 138 of the Negotiable Instruments Act, 1881. The said Vijay Kumar was not the owner of the property bearing Survey No.315 area 2.10 acres situated at village Uchhabatti, Patwari

Halka No. 10, Beltara, Distt. Bilaspur. It is alleged that the respondent was aware of the fact that the record of right submitted by Vijay Kumar is fraudulent even then surety was produced before the trial Court.

4. In the present case, the person who submitted the surety papers was not prosecuted.

5. The only question for consideration before this Court is whether the respondent was aware of the fact that the record of rights produced by Vijay Kumar before the Court was a forged one. Gyaneshwar Namdev (PW-1), Vibhav Singh (PW-2) and Chottelal (PW-3) were examined against present respondent, but no one deposed before the trial Court that the respondent was aware of the fact that the record of rights produced by Vijay Kumar was a forged one. In absence of any evidence of knowledge of the respondent, the trial Court recorded finding of acquittal.

6. For commission of offence under Section 420 IPC, it has to be established that the respondent dishonestly induced any person fraudulently and induced any person to deliver any property to do or to omit to do something which otherwise he would not have done or omitted. In the present case, there is nothing on record against present respondent to connect him for the charges of deceiving, therefore, it is not a case where interference of this Court is required with the judgment of trial Court. It is also not a case where the respondent should be called for full consideration of the case.

**7.** Accordingly, the application for leave to appeal is rejected.  
Consequently, the CrMP stands dismissed.

**Sd/-**  
**(Ram Prasanna Sharma)**  
**JUDGE**

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