

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 414 of 2019**

- Smt. Ratna Chandrakar W/o Shri Durga Prasad Chandrakar, Aged About 55 Years R/o Near Railway Crossing, Balod, Tahsil And District Balod Chhattisgarh.

----Applicant**Versus**

1. Kamlesh Kumar S/o Late Shri Paras Singh Gautam, Aged About 36 Years R/o Parras, Police Station Balod, District Durg, Presently District Balod Chhattisgarh.
2. State of Chhattisgarh, Through S H O Police Station Balod, District Balod Chhattisgarh.

---- Respondents

For Applicant	Shri Mayank Chandrakar, Advocate.
For Respondent No.1	Shri Shikhar Bakhtiyar, Advocate.
For Respondent No.2/State	Shri Pawan Kesharwani, P.L.

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Gautam Chourdiya

Order on Board by Shri Prashant Kumar Mishra J.

04/09/2019

1. In this criminal revision under Section 397 read with Section 401 of Cr.P.C. the applicant/complainant would challenge the legality and validity of the impugned appellate judgment passed by the Sessions Judge, Balod dismissing the State's appeal against acquittal of the respondent from the charges under Section 420, 467, 468 and 506 Part II of IPC which in turn was rendered by the trial Magistrate in its judgment dated 29.09.2011.
2. Admittedly, the applicant and the accused entered into the agreements on 04.05.2003 and 04.03.2005 for sale of land for a sum of

Rs.2,50,000/-. The dispute arose when after receiving the entire amount of Rs.2,50,000/- on different dates, the accused did not execute the sale-deed in favour of the complainant. The complainant would allege that the accused entered into the agreement to sale and received a sum of Rs.2,50,000/- from the complainant despite knowing that he is not the owner of the subject land and has thus committed deceit and cheating.

3. While acquitting the accused, the trial Magistrate and while dismissing the State's appeal against acquittal, the Sessions Court has recorded a finding that the complainant has admitted in her deposition that on the date of agreement she was aware of the fact that the accused is not the recorded owner of the land and further that the land is opposite to her house as she has seen the accused being in possession of the land. The agreement would also record these facts that the accused is not the recorded owner of the land. Since the complainant was aware of the position about ownership of the land as recorded in the revenue record and yet she agreed to purchase the land by making payment of Rs.2,50,000/- to the accused. The Court below has rightly held that the basic ingredients of deceit and cheating is missing.
4. No case for entertaining this revision application is made out, it fails and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge