

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 431 of 2017**

Gurdeep Singh S/o Shri Keshar Singh Aged About 58 Years
 Swami Keshar Traders Charoda, R/o Charoda, Police Station
 Purani Bhilai-3, Tahsil & District Durg Chhattisgarh
--- Petitioner

Versus

1. State of Chhattisgarh Through The District Magistrate, Durg,
 District Durg Chhattisgarh , Chhattisgarh
2. Station House Officer Shri Jagdish Mishra , Police Station Purani
 Bhilai, District Durg Chhattisgarh , District : Durg, Chhattisgarh
3. Dilip Hinduja S/o Tikam Das Hinduja, R/o New Shanti Nagar,
 Tahsil And District Raipur, Chhattisgarh, District : Raipur,
 Chhattisgarh .
--- Respondents

For the applicant : Mr. Narayan Prasad Thakur, Advocate.
 For the State : Mr. Chandresh Shrivastava, Dy.A.G.
 For respondent No.2 : Mr. Awadh Tripathi, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****08.03.2019**

1. The prayer made in this petition is to direct the State-respondents not to make further investigation without getting any permission from JMFC in Criminal Case No. 359 of 2014.
2. The pleading of the petition would show that on a written complaint made by complainant Dilip Hinduja in respect of forged sale of lands bearing Khasra Nos.462/2 & 463/2 situated at Charoda Bhilai, the FIR was lodged which was registered as Crime No.120 of 2013. After completion of investigation, charge sheet was filed against one Mohd. Shakil Khan and Keshri Begam for the offences

punishable u/s 420, 467, 468, 471/34 of IPC. The petitioner contended that no crime was found against him, therefore, he was not made an accused, however subsequently complainant Dilip Hinduja filed a criminal complainant against the present petitioner Gurudeep Singh as also Charan Singh and Patwari Roop Singh before the Judicial Magistrate First Class, Bhilai which was registered as Complaint Case No.314 of 2015 and summons were issued which was subject of challenge.

3. Learned counsel for the petitioner would submit that while Cr.M.P.No.877/2017 was pending before this Court, despite that the present petitioner was again arrayed as an accused in the said Crime Number of the Police which cannot be made an investigation and separate investigation could not have been ordered.
4. Learned counsel for the complainant submits that Cr.M.P.No.877 of 2017 which was filed against the issuance of summons in the complaint filed by the respondent was subject to challenge and after due hearing the said petition has been dismissed on 24.10.2017. It is further submitted that now the complaint case and the criminal case have been merged together before the court below, therefore, the present petition has become infructuous as finding has been rendered in the order passed in Cr.M.P.No.877/2017 on 24.10.2017 wherein this Court did not exercise the power u/s 482 of Cr.P.C., to quash the proceeding. Therefore he submits that suppression of fact has been made by the petitioner and as such, the petition is liable

to be dismissed.

5. Perused the order dated 24.10.2017 passed in Cr.M.P. No. 877/2017 which was filed by the petitioner Gurudeep Singh. A perusal of the said order shows that this Court in exercise of Power under section 482 of Cr.P.C., has refused to quash the summons issued to the petitioner which arose out of complaint filed by respondent no.2 Dilip Hinduja. Since the statement has been made at bar that both the cases i.e., complaint case and police case have been merged together and the petitioner has been arrayed as an accused, the finding rendered in Cr.M.P.No.877/2017 shall also govern the finding of fact in this case also. If a different finding is given in this writ petition, it will amount to over-ride the earlier observation made in order dated 24.10.2017 passed by this Court in Cr.M.P. No.877/2017 whereby the said petition was dismissed. In view of such facts, no relief can be granted to the petitioner in this writ petition. Accordingly, the petition is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**