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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1461 of 2018**

Shailesh Sharma S/o Shri Ram Kumar Aged About 30 Years
Occupation-Agriculture, R/o- Village Konargarh, Police Station
Pamgarh, Civil And Revenue District- Janjgir-Champa, Chhattisgarh.,
District : Janjgir-Champa, Chhattisgarh

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

1. Rajesh Patel S/o Shambhu Patel Aged About 61 Years R/o-
Village Konargarh, Police Station Pamgarh, Civil And Revenue
District- Janjgir-Champa, Chhattisgarh.
2. Bhagwat Prasad Sahu S/o Salik Ram Aged About 40 Years R/o-
Village Raseda P.S. Akaltara, District Janjgir-Champa,
Chhattisgarh.
3. Feku Singh S/o Ajay Singh Aged About 45 Years R/o- Village
Kutighat, P.S. Pamgarh, District- Janjgir-Champa, Chhattisgarh.
4. Yogendra Singh S/o Ajay Singh Aged About 40 Years R/o-
Village Kutighat, P.S. Pamgarh, District Janjgir-Champa,
Chhattisgarh.

---- **Respondents**

For the Petitioner : Shri KP Sahu, Advocate

For the respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****05.02.2019.**

1. Heard on application for grant of leave to appeal under
Section 378(3) of CrPC.
2. This petition is preferred against the judgment dated
26.04.2018 passed by Judicial Magistrate First Class, Pamgarh,
Distt. Jangir Champa (CG) in Criminal Case No.1485/2007
wherein the said Court acquitted respondent Rajesh Patel for the
charges under Section 420 of the Indian Penal Code and rest of
the respondents have been tried for the offence under Section
392 IPC.

3. In the present case, complaint is one Shailesh Sharma. It is alleged that he entered into agreement with respondent Rajesh Patel for purchasing tractor Swaraj bearing registration No.MP.26E.0863 and Trolley No.MP.26E 0864, but said Rajesh Patel did not transfer the ownership of the said vehicle in favour of the petitioner. Allegation against the other respondents is that they have taken the above mentioned vehicle from the possession of Rajesh Patel.

4. Seizure memo filed with charge sheet goes to show that earlier the tractor and trolley in question were registered in the name of one Bhagvat Prasad Sahu which is mentioned in the said documents. Said Bhagvat Prasad Sahu transferred the vehicle in the name of one Yogendra Singh. After the transfer, Yogendra Singh is the registered owner of the said tractor. Respondent Feku Singh is brother of Yogendra Singh and respondent Bhagvat Prasad Sahu is the original owner of the vehicle. Though the complainant alleged that he entered into agreement to purchase the vehicle from Rajesh Patel, but from the record of the trial Court it does not appear that Rajesh Patel was ever registered owner of the said vehicle. Therefore, agreement between Rajesh Patel and Shailesh Sharma will not pass the title of the vehicle to the petitioner. From the seizure memo itself it is clear that the vehicle was in possession of Yogendra Singh after purchasing the same and therefore, it cannot be said that respondents 2 to 4 had taken the vehicle from the possession of the complainant. The petitioner can recover amount, if any, from the Rajesh Patel for entering into agreement of sale, but the fact remains that other

respondents cannot be held liable for any kind of criminal act because Yogendra Singh was the owner of the vehicle. The petitioner has entered into agreement with Rajesh Patel without there being any document in favour of Rajesh Patel. It means that the petitioner himself was not aware of the fact that Rajesh Patel is not the owner of the vehicle.

5. The trial Court opined that the documents which alleged to be signed by Rajesh Patel is not proved to be the documents executed by him. Looking to the entire evidence, the trial Court opined that the charges levelled against the respondents is not established. After reassessing the evidence, this Court has no reason to record a contrary finding. It is not a case where the respondents should be called for full consideration of the petition.

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

Sd/-
(Ram Prasanna Sharma)
JUDGE