

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 556 of 2019

Sushil Chand Pagariya, S/o. Late Mangilal Pagariya, Aged About 58 Years,
R/o. Mahaveer Plaza, Tagore Nagar, P. S. City Kotwali, Raipur Tahsil and
District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : The Police Station Civil Lines, Raipur,
District Raipur Chhattisgarh.
2. Gajaraj Pagariya, S/o. Late Mangilal Pagariya, House No. 28,
Vivekanand Nagar, Kotwali Raipur Chhattisgarh.
3. Durga Devi Pagariya, W/o. Gajraj Pagariya, R/o. 28 Vivekanand
Nagar, P. S. City Kotwali Raipur Chhattisgarh.

-----Respondents

For Petitioner	: Mr. N. Naha Roy, Advocate
For Respondent/State	: Mr. Devendra Pratap Singh, Dy.A.G.
For Respondents No.2 & 3	: Mr. Maneesh Sharma & Mr. Animesh Tiwari, Advocates

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

09/08/2019

Heard on admission.

1. The instant petition under Article 226 of Constitution of India has been
filed challenging the FIR registered as 416/2019 for offence under
Section 420, 467 & 468 of the Indian Penal Code, in Police Station
Civil Lines, Raipur, District – Raipur alleging that lodging of FIR is an
abuse of process of law, therefore, appropriate writ may be issued.

2. It is submitted by the counsel for the petitioner that contents of the FIR are totally false. The allegation that the petitioner has forged the signatures of Smt. Durga Devi Pagariya, Director C.G. Power Project (P) Ltd. to obtain loan of Rs.1.5 Crores is totally false and baseless. A similar FIR was lodged against the petitioner earlier, which was registered as Crime No.286/2016 for offence under Section 406, 418, 420, 467, 468, 471, 120-B of the Indian Penal Code has been quashed by this Court in Cr.M.P. No.1384 of 2016 by order dated 09.05.2018. Consequent to which, criminal case was dismissed on the basis of the compromise between the parties vide order dated 06.07.2018, passed in Criminal Case No.16480 of 2016 by the learned Judicial Magistrate First Class. There had been civil dispute between the parties, which has been compromised regarding which documents have been filed along with the petition and on that basis compromise decree has been passed in Civil Suit No.245A/2017 on 13.02.2018.
3. It is further submitted by the counsel for the petitioner that loan was obtained for project and the same had been repaid in complete regarding which, copy of accounts statements have been filed. Copy C.A. report also mentions that loan was obtained for the C.G. Power Project Pvt. Ltd. Further the petitioner has also got examined the disputed signatures in the loan documents and hand writing expert has given report Vide Ex.P-13 that standard signatures and the disputed signatures have been signed by one and same person. Therefore, no case at all is made out against the petitioner. Therefore, the petition be admitted for final hearing.
4. Counsel for the respondent No.1/State has made formal objection.
5. Counsel for the respondent No.2 and 3 submits that writ is not

maintainable. There is no statement made by the petitioner regarding violation of any legal right or fundamental rights. There is clear evidence in this case that the loan was applied for by use of forged documents and forged signatures of Durga Devi Pagariya and thereafter, the loan was received and misappropriated by the petitioner. It is submitted that earlier criminal case and the civil suit are altogether different cases, which are not connected or attached to this case, that loan that was fraudulently obtained by the petitioner has been repaid by the respondent No.2 and 3. Therefore, the act of the petitioner regarding which complaint is filed is full of substance. Hence, the petition is not maintainable.

6. I have heard the learned counsel for the parties and perused the documents placed on record.
7. Considered on the submission made by the counsel for the both the parties. It is not a case where the statement of the petitioner with respect to his own stand is undisputed. The reference made to earlier cases of criminal and civil nature, which have been compromised between the parties are different and not connected with the allegation in the present FIR against the petitioner. The allegation made by the respondent No.2 and 3 is very clear and categorical against the petitioner. The grounds raised by the petitioner that it was the petitioner, who has repaid the loan and that the disputed documents were signed by the respondent No.3 itself needs to be investigated. Therefore, I do not find any reason that the investigation in this case should be thwarted on the basis of the grounds, which have been raised on behalf of the petitioner. The investigation may result in closure report, if the, petitioner is able to substantiate his claims in the

investigation. Therefore, on this basis, I do not find any substance in this petition, which is dismissed accordingly at the admission stage itself.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram