

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr. M. P. No. 423 of 2014**

Jagdish Prasad Agrawal, S/o Late Shri Ambu Lal Agrawal, aged about 68 years,
Resident of Bajrang Chowk, Bazarpara Ward, Newra, P.S. Newra, District –
Raipur (C.G.)

----Appellant**Versus**

1. State of Chhattisgarh, through Police Station Newra, District – Raipur (C.G.)
2. Lalit Agrawal, aged about 47 years, S/o Kishan Agrawal,
3. Kishan Agrawal, aged about 70 years, S/o Late Sadhulal, both are resident of Bajrang Chowk, Bazarpara Ward, Newra, P.S. Newra, District – Raipur (C.G.)

---- Respondents

For Petitioner	:	Mr. Prakash Tiwari, Advocate.
For Respondent No. 1	:	Mr. Akash Pandey, PL
For Respondents No. 2 & 3	:	Mr. Y.C. Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****05/04/2019**

(1) Petitioner is a complainant, who filed complaint against respondents No. 2 & 3 herein for commission of offence punishable under Sections 406, 420, 294 & 506-B read with Section 34 of the Indian Penal Code, which was dismissed by the trial Court before taking cognizance and that was affirmed by the revisional Court, against which this criminal miscellaneous petition under Section 482 of the Cr.P.C. has been preferred.

(2) Shri Prakash Tiwari, learned counsel appearing for the petitioner would submit

that both the courts below are absolutely unjustified in not taking cognizance against respondents No. 2 & 3, which is liable to be set aside.

(3) Per contra, Shri Y.C. Sharma, learned counsel appearing for respondents No. 2 & 3, would support the impugned order.

(4) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and went through the record with utmost circumspection.

(5) Dispute arose between the petitioner/complainant and respondents No. 2 & 3 as the complainant has given the instrument of weighing to respondents No. 2 & 3 for utilization and when he demanded the said instrument of weighing, respondents No. 2 & 3 instead of returning the instrument of weighing, abused the appellant in filthy language and threatened not to come again asking for the instrument of weighing and thus refused to return the instrument of weighing of the petitioner.

(6) Learned Magistrate, by its order dated 07.01.2012, has dismissed the complaint holding that there is no material on record for taking cognizance against respondents No. 2 & 3 under Sections 406 and 420 of the Indian Penal Code, however, it is held that incident took place in the house of accused persons and in the statement made before the court, the fact of threatening has not been stated and, therefore, offence under Section 294 of the IPC is also not made out against the respondents as occurrence did not take place in public place but it took place in the house of the accused persons, which cannot be termed as public place. Likewise, both the courts below have rightly held on the basis of evidence available on record that there is no *prima facie* case against respondents No. 2 & 3/accused persons under Sections 420,

406, 294 & 506-B of the Indian Penal Code, in which I do not find any illegality or perversity warranting interference under Section 482 of the Code of Criminal Procedure.

(7) Accordingly, Cr.M.P. being devoid of merit is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

