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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.958 of 2018

Order Reserved on : 15.3.2019

Order Passed on : 15.5.2019

B.K. Gupta (wrongly mentioned as V.K. Gupta), S/o Shri Ram Ji Lal Gupta, aged about 66 years, R/o Ring Road No.2, Gogaon, Raipur, District Raipur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through the Superintendent of Police, Anti-Corruption Bureau, Raipur, Chhattisgarh

--- Respondent

and

Criminal Revision No.961 of 2018

1. V.P. Agrawal, S/o Shri B.D. Agrawal, aged about 62 years, Managing Director, New Industrial Area, Ring Road No.2, Gogaon, Raipur, District Raipur, Chhattisgarh
2. Sudhakar Sarswat, S/o Shri H.N. Sarswat, aged about 51 years, R/o Prakash Kunj Colony, PIL Champa, District Janjgir-Champa, Chhattisgarh
3. Balvir Sharma, S/o Shri G.R. Sharma, aged about 57 years, R/o House No.824-B, Gali No.7, Ashok Vihar, Near Shri Hanuman Sitaram Mandir, Sector-5, Gudgaon, New Delhi
4. Subhash Hardaha, S/o Shri B.P. Hardaha, aged about 48 years, R/o Ring Road No.2, Gogaon, Raipur, District Raipur, Chhattisgarh

---- Applicants

versus

State of Chhattisgarh through the Superintendent of Police, Anti-Corruption Bureau, Raipur, Chhattisgarh

--- Respondent

For Applicants	:	Shri Abhishek Sinha and Shri Amit Buxy, Advocates
For Respondent/State	:	Shri Devendra Pratap Singh, Deputy Advocate General

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. ORDER

1. Since both the revisions arise out of the same criminal case

pending before the Special Judge under the Prevention of Corruption Act, 1988 (henceforth 'the Act of 1988'), they are disposed of together by this common order.

2. The present revisions have been preferred against the orders dated 17.7.2018 and 28.7.2018 passed by the Special Judge under the Act of 1988, Bemetara in Special Case No.3 of 2016. Vide impugned order dated 17.7.2018, the Special Court has rejected the objection of the Applicants raised with regard to its jurisdiction and vide impugned order dated 28.7.2018, the Special Court has framed charges against all the Applicants for offences punishable under Sections 420 and 120B of the Indian Penal Code.
3. Facts, in brief, are that the Respondent/State filed a charge-sheet in Crime No.13 of 2006 against absconded co-accused a public servant, namely, Om Prakash Verma, the then Tahsildar, Saja and against the present Applicants for offences punishable under Sections 13(1)(d) and 13(2) of the Act of 1988 and Section 120B of the Indian Penal Code. According to the prosecution case, M/s Pochi Farms Private Limited (henceforth 'the Pochi Farms') entered into agreements to purchase lands from various villagers/farmers for which agreements to sell for different sale considerations were executed between the Pochi Farms and the land sellers. The farmers/sellers executed a power of attorney appointing B.K. Gupta, one of the present Applicants, as their power of attorney holder. B.K. Gupta ultimately executed deed of agreements to sell lands on behalf of the farmers to the Pochi Farms. On the basis of agreements to sell, an application under Sections 115 and 116 of the Chhattisgarh Land Revenue Code was

moved by Subhash Hardaha, Applicant No.4 of Criminal Revision No.961 of 2018 before the Court of Tahsildar, Saja and as a result thereof the Pochi Farms got entered its name in Column No.12 of the concerned revenue record to be the possession holder of the said lands for a period of 1 year. It is alleged that absconded co-accused then Tahsildar Om Prakash Verma illegally recorded the possession of the Pochi Farms in Column No.12 of the revenue record. Since sale-deeds were not executed between the buyer and the sellers, a loss of registration fee etc. was sustained by the Government. It is also the case of the prosecution that the lands for which agreements were entered into exceeded the prescribed ceiling limit under the Chhattisgarh Agricultural Land Ceiling Act. V.P. Agrawal, arrayed as Applicant No.1 in Criminal Revision No.961 of 2018, has been impleaded as an accused for being Managing Director of the Pochi Farms. Applicant No.2, Sudhakar Sarswat and Applicant No.3, Balvir Sharma of Criminal Revision No.961 of 2018 have been impleaded as accused for being Directors of the Pochi Farms and Applicant No.4, Subhash Hardaha of Criminal Revision No.961 of 2018 has been impleaded as an accused for being an employee of the Pochi Farms. Applicant Subhash Hardaha is the person who moved the application under Sections 115 and 116 of the Chhattisgarh Land Revenue Code before the Court of Tahsildar, Saja. B.K. Gupta, Applicant of Criminal Revision No.958 of 2018, has been arrayed as an accused on the ground that he was the power of attorney holder of the farmers/land sellers, whose lands have been purchased by the Pochi Farms. After filing of the charge-sheet, co-accused Tahsildar Om Prakash Verma did not appear before the Special Judge. Therefore, the Special Judge, vide order dated

5.4.2018, declared him to be absconded and a permanent arrest warrant has been issued against him. On 14.6.2018, all the present Applicants moved an objection before the Special Judge that the case of main accused public servant Tahsildar Om Prakash Verma has been separated and is not being tried by the Special Judge, therefore, the case of the present Applicants, who are not public servants and alleged to have committed only an offence of conspiracy under the Indian Penal Code, cannot be tried by the Special Court constituted under the Act of 1988. Vide the impugned order dated 17.7.2018, the Special Judge rejected the objection. Thereafter, on 28.7.2018, the Special Judge framed the charges against the present Applicants only for the offences punishable under Sections 420 and 120B of the Indian Penal Code and not for any offence punishable under the Act of 1988. Hence, the present revisions have been preferred by the Applicants.

4. Learned Counsel appearing for the Applicants in both the revisions submitted that the charges framed against the Applicants are perverse and unsustainable on facts as well as on law because it is not the case of the prosecution that the Applicants have been benefitted. In absence of evidence in the charge-sheet indicating any act or omission on the part of the Applicants resulting any wrongful loss to the Government or any other person and consequently wrongful gain to the Applicants, no charge under Section 420 of the Indian Penal Code is sustainable and consequently the same is liable to be quashed. Nothing is available in the charge-sheet against the Applicants which could show that the mandatory *prima facie* ingredients of the offence under Section 420 of the Indian Penal Code are established to

frame the charge against the Applicants. The charges framed against the Applicants under Sections 420 and 120B of the Indian Penal Code are perverse and liable to be set aside as the same are not substantiated by any material in the charge-sheet. From the case of the prosecution itself, it is established that no illegal act is done by the Applicants. On the contrary, an application under Sections 115 and 116 of the Chhattisgarh Land Revenue Code was moved in terms of the legal provisions, which, by any stretch of imagination, cannot qualify to be a conspiracy. An act or proceedings before a Court of law cannot qualify to be a conspiracy. The Revenue Court/Tahsildar has passed an order in exercise of the provisions of law which has not been set aside and, therefore, recording of possession by the Tahsildar, in no manner, qualifies to be a conspiracy. It was further submitted that the law as it existed did not require registration of the agreements to sell. There is also no legal mandate that the possession can only be recorded after execution of a sale-deed. Thus, no offence is made out against any of the Applicants. It was further submitted that none of the farmers/land sellers have made any complaint against any of the Applicants and, therefore also, no offence is made out. It was also submitted that the order of the Tahsildar recording possession of the Pochi Farms in the revenue record has not been challenged and thus the same has attained finality. After registration of a case under the Act of 1988, registration of the agreements to sell have been done. Therefore, no financial loss has been suffered by the Government and full revenue has been received by the Government. It was further submitted that registration of agreements to sell is not compulsory and, therefore, merely because registration of agreements to sell has not been

done it does not constitute any criminal offence. With regard to jurisdiction of the Special Court, it was submitted that the Special Court constituted under the Act of 1988 is only empowered to try an offence punishable under the Act of 1988. In the present cases, no allegation has been levelled or no charge has been framed against the Applicants under the Act of 1988. The offence punishable under the Act of 1988 is alleged only against public servant Tahsildar Om Prakash Verma. Since he is declared to be absconded and no trial is going on against him and also no trial is going on against the present Applicants with regard to the Act of 1988, the Special Court has no jurisdiction to try the offence of the present Applicants which are punishable under the Indian Penal Code.

5. Learned Counsel appearing for the State/Respondent supported the impugned orders passed by the Special Court. It was submitted by him that the jurisdiction of the Special Court once vested cannot be said to have come to an end or wiped out only because the sole public servant has absconded and as such the Special Court has rightly rejected the objection raised by the Applicants. It was further submitted that since the conspiracy was done in order to commit the offence under the Act of 1988, it is only the Special Court who is empowered to try such offence of conspiracy. Therefore, the Court below has not committed any jurisdictional error in passing the impugned order. It was further submitted that with regard to the charges framed by the Special Court the grounds raised by the Applicants are all matters of trial. There is sufficient material available for framing of charges against the Applicants. Thus, the Special Court has rightly framed the

charges against the Applicants.

6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.

7. In the cases in hand, the following questions arise for adjudication:

(i) Whether *prima facie* material is available to sustain the charges framed against the present Applicants under Sections 420 and 120B of the Indian Penal Code?

(ii) If yes, whether the Special Court constituted under the Act of 1988 can conduct trial against the present Applicants for the offences punishable under the Indian Penal Code only because the public servant, i.e., Tahsildar Om Prakash Verma, against whom offence punishable under the Act of 1988 is alleged, has absconded and no trial is going on for the offence punishable under the Act of 1988?

8. Before discussing the matter further, it would be appropriate to go through the relevant provisions of the Indian Penal Code. Cheating is defined in Section 415 of the Indian Penal Code as under:

“415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

*Explanation.—*A dishonest concealment of facts is a deception within the meaning of this section.”

9. Section 420 of the Indian Penal Code runs thus:

“420. Cheating and dishonestly inducing delivery of property.— Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

10. Section 120B of the Indian Penal Code reads as under:

“120B. Punishment of criminal conspiracy.—
 (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.
 (2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.”

11. While dealing with the subject issue in **(2018) 14 SCC 233 (Samir Sahay v. State of Uttar Pradesh)**, it has been observed by the Supreme Court as under:

“16. Before we proceed further to examine the contentions of the learned counsel for the parties, it is necessary to notice the ingredients for establishing a charge under Section 420 IPC. Section 415 IPC defines “cheating” which is to the following effect:

“415. Cheating.—Whoever, by deceiving

any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

17. Section 420 IPC is with regard to the cheating and dishonestly inducing delivery of property which is to the following effect:

“420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

18. According to Section 415 IPC, the inducement must be fraudulent and dishonest which depends upon the intention of the accused at the time of inducement. This Court had occasion to consider Sections 415 and 420 IPC in *Hridaya Ranjan Prasad Verma v. State of Bihar*, (2000) 4 SCC 168. This Court after noticing the provisions of Sections 415 and 420 IPC stated the following in paras 14 and 15: (SCC pp. 176-77)

“14. On a reading of the section it is manifest that in the definition there are set forth two separate classes of acts which the person deceived may be induced to do. In the first place he may be induced fraudulently or dishonestly to deliver any property to any person. The second class of acts set forth in the section is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but not fraudulent or dishonest.

15. In determining the question it has to

be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time of inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed."

19. Again in *Dalip Kaur v. Jagnar Singh*, (2009) 14 SCC 696, this Court noticed the ingredients of Section 420 IPC. In paras 9 to 11 the following was stated: (SCC pp. 699-700)

"9. The ingredients of Section 420 of the Penal Code are:

- '(i) Deception of any persons;
- (ii) Fraudulently or dishonestly inducing any person to deliver any property; or
- (iii) To consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit.'

10. the High Court, therefore, should have posed a question as to whether any act of inducement on the part of the appellant has been raised by the second respondent and whether the appellant had an intention to cheat him from the very inception. If the dispute between the parties was essentially a civil dispute resulting from a breach of contract on the part of the appellants by non-refunding the amount of advance the same would not constitute an offence of cheating. Similar is the legal position in respect of an offence of criminal breach of trust having

regard to its definition contained in Section 405 Of the Penal Code. [See *Ajay Mitra v. State of M.P.*, (2003) 3 SCC 11]

11. There cannot furthermore be any doubt that the High Court would exercise its inherent jurisdiction only when one or the other propositions of law, as laid down in *R. Kalyani v. Janak C. Mehta*, (2009) 1 SCC 516 is attracted, which are as under: (SCC p. 523, para 15)

'(1) The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a first information report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.

(2) For the said purpose the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.

(3) Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the Court shall not go beyond the same and pass an order in favour of the accused to hold absence of any *mens rea* or *actus reus*.

(4) If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue.”

12. In (2009) 7 SCC 495 (**Devendra v. State of Uttar Pradesh**), it has been observed by the Supreme Court as follows:

“16. In *V.Y. Jose v. State of Gujarat*, (2009) 3 SCC 78, this Court opined: (SCC p. 83, para 14)

“14. An offence of cheating cannot be said to have been made out unless the

following ingredients are satisfied:

(i) deception of a person either by making a false or misleading representation or by other action or omission;

(ii) fraudulently or dishonestly inducing any person to delivery any property; or to consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit.

For the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in the absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Penal Code can be said to have been made out.”

It is, therefore, evident that a misrepresentation from the very beginning is a sine qua non for constitution of an offence of cheating, although in some cases, an intention to cheat may develop at a later stage of formation of the contract.

17. In *Hridaya Ranjan Prasad Verma v. State of Bihar*, (2000) 4 SCC 168 this Court held: (SCC pp. 176-77, paras 14-15)

“14. On a reading of the section it is manifest that in the definition there are set forth two separate classes of acts which the person deceived may be induced to do. In the first place he may be induced fraudulently or dishonestly to deliver any property to any person. The second class of acts set forth in the section is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but not fraudulent or dishonest.

15. In determining the question it has to be kept in mind that the distinction

between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time of inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed.””

- 13. In (2013) 2 SCC 801 (Arun Bhandari v. State of Uttar Pradesh),**
the Supreme Court has observed thus:

“**15.** Scanning the definition of “cheating” the Court opined that there are two separate classes of acts which the persons deceived may be induced to do. In the first place he may be induced fraudulently or dishonestly to deliver any property to any person. The second class of acts set forth in the section is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but not fraudulent or dishonest. Thereafter, the Bench proceeded to state as follows: (Hridaya Ranjan Prasad Verma v. State of Bihar, (2000) 4 SCC 168, SCC p. 177, para 15)

“**15.** In determining the question it has to be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time of inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is

shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed.””

- 14. In (2007) 5 SCC 403 (Soma Chakravarty v. State through CBI),**
the Supreme Court has observed as follows:

“**10.** It may be mentioned that the settled legal position, as mentioned in the above decisions, is that if on the basis of material on record the court could form an opinion that the accused might have committed offence it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence. At the time of framing of the charges the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution has to be accepted as true at that stage. Before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commitment of offence by the accused was possible. Whether, in fact, the accused committed the offence, can only be decided in the trial.”

- 15. In (2012) 9 SCC 460 (Amit Kapoor v. Ramesh Chander),** the
Supreme Court has observed as under:

“**12.** Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders,

which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.”

16. The cases in hand are to be discussed in the light of above enunciations of law.
17. It is the case of the prosecution that Applicant V.P. Agrawal was Managing Director of the Pochi Farms. Applicants Sudhakar Sarswat and Balvir Sharma were Directors of the Pochi Farms and Applicant Subhash Hardaha was an employee of the Pochi Farms. Applicant Subhash Hardaha moved an application before the Tahsildar under Sections 115 and 116 of the Chhattisgarh Land Revenue Code for recording possession of the Pochi Farms in Column No.12 of the revenue record. Different agreements to sell were executed between different farmers/land sellers and the Pochi Farms for sale of total 241.50 acres of land of Tahsil Saja. Thereafter, all the land sellers/farmers executed different special power of attorney in favour of Applicant B.K. Gupta. Thereafter, total 124 applications were submitted by Applicant Subhash Hardaha on behalf of the Pochi Farms under Sections 115 and 116 of the Chhattisgarh Land Revenue Code before the Tahsildar for recording possession of the Pochi Farms in the revenue record. Allegedly, absconded accused Tahsildar Om Prakash Verma, without having jurisdiction, illegally entered possession of the Pochi Farms in Column No.12 of the revenue record. Further case of the

prosecution is that no power of attorney was executed by the Pochi Farms in favour of Applicant Subhash Hardaha. Therefore, Subhash Hardaha had no authority to move the said applications under Sections 115 and 116 of the Chhattisgarh Land Revenue Code before the Tahsildar. Tahsildar Om Prakash Verma recorded possession of the Pochi Farms in Column No.12 of the revenue record only on the basis of the agreements to sell, without there being any registration of the lands in favour of the Pochi Farms and without calling any report from the concerned Patwari. Therefore, the Government sustained loss of registration fee of Rs.13,20,618/-. Before recording possession of the Pochi Farms in the revenue record, the Tahsildar did not make any of the land sellers a party nor did he issue any notice to any of the land sellers.

- 18. In 2019 SCC OnLine SC 99 (Bhimabai Mahadeo Kambekar v. Arthur Import and Export Company), it has been observed by the Supreme Court as follows:**

“8. This Court has consistently held that mutation of a land in the revenue records does not create or extinguish the title over such land nor it has any presumptive value on the title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question. (See *Sawarni (Smt.) v. Inder Kaur*, (1996) 6 SCC 223, *Balwant Singh v. Daulat Singh (dead) by L.Rs.*, (1997) 7 SCC 137 and *Narasamma v. State of Karnataka*, (2009) 5 SCC 591).”

- 19. Thus, from the above discussion, it is clear that entry of possession in khasra has presumptive evidentiary value of possession and not of title. In other words, entry of possession in khasra does not create any title in favour of a purchaser/possession holder.**

Though, in the cases in hand, Tahsildar Om Prakash Verma has allegedly committed certain irregularities, his order has not been challenged by anyone and, therefore, the said order has attained finality. From the arguments advanced by Learned Counsel appearing for the Applicants, it is also clear that registry of most of the lands has been done in favour of the Pochi Farms. Therefore, no case is made out regarding loss of registration fee to the Government. From the statements of witnesses, it is also clear that none of the witnesses has stated anything against any of the present Applicants nor have they any grievance against any of the Applicants.

- 20.** Even if the entire evidence collected by the prosecution is taken as it is, the material available does not show that the present Applicants induced any of the land sellers/farmers in any manner. It does not appear that any of the acts of the present Applicants falls within the purview of definition of cheating as given in Section 415 of the Indian Penal Code. Nothing is available to *prima facie* establish that the Applicants made any false or misleading representation before the Tahsildar or they concealed any of the relevant facts from him. Mere entry of possession over the lands in the revenue record does not create any title in favour of the Pochi Farms nor did the said entry cause any financial loss to the Government. Therefore, in my considered view, the evidence collected by the prosecution does not constitute any of the ingredients of Section 415 of the Indian Penal Code. Nothing is available to *prima facie* establish that any of the present Applicants committed any criminal conspiracy because from the evidence of the prosecution it is established that no illegal act is done by the

Applicants. On the contrary, an application under Sections 115 and 116 of the Chhattisgarh Land Revenue Code was moved by Applicant Subhash Hardaha for recording possession of the Pochi Farms and this act does not fall within the purview of conspiracy. Therefore, the charges framed by the Special Court against the present Applicants under Sections 420 and 120B of the Indian Penal Code, being not in accordance with the evidence collected by the prosecution, are not sustainable.

21. Since no charge under Sections 420 and 120B of the Indian Penal Code is made out against the present Applicants, I am not inclined to discuss the second question formulated by me above relating to trial against the present Applicants.
22. Consequently, both the revisions are allowed. The present Applicants are discharged from the charges framed under Sections 420 and 120B of the Indian Penal Code.

Sd/-

(Arvind Singh Chandel)
JUDGE