

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1279 of 2018**

Arun Kumar Pandey, S/o Late Babulal Sharma, Aged About 41 Years
Occupation- Agriculturist, R/o Village- Daganiya, Police Station- Nandghat,
Tahsil- Nandghat, Civil And Revenue District- Bemetara, Chhattisgarh

---- Applicant

Versus

1. Dauram Sahu, S/o Mahettar Sahu, Aged About 55 Years, Occupation- Agent Of Mahindra Tractor Agency, Bhatapara, R/o Village- Hathnipara Road Bhatapara, District- Raipur, Chhattisgarh
2. Prakash Agarwal, S/o Narayan Agarwal, Aged About 45 Years Proprietor- Agarwal, Trolley And Pumps, Station Road Bhatapara, Tahsil Bhatapara, District- Raipur, Chhattisgarh
3. Arun Agarwal, Trade Combines Raipur, Authorized Dealer Of Mahindra Tractor, Mana Road- Devpuri, Raipur, Chhattisgarh
4. Vishwas Dattar, Branch Manager(Absconded), ICICI Bank Raipur, Opposite- Kachahari Chowk, Raipur, Chhattisgarh
5. State Of Chhattisgarh Through District- Magistrate, District- Bemetara, Chhattisgarh

....Respondents

For Applicant	:	Mr. Dinesh Tiwari, Advocate
For State	:	Mr. Suryakant Mishra, Panel Lawyer

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Judgment On Board by Manindra Mohan Shrivastava, J.

15.01.2019

Heard.

1. This revision is preferred against order dated 19.09.2018 passed by learned Additional Sessions Judge, Bemetara in criminal appeal No.1 of 2018 arising out of judgment dated 15.12.2017 passed by learned Judicial Magistrate First Class Bemetara, in criminal case No.1238/2016. In the criminal case, accused were acquitted and appellant's appeal against acquittal was also dismissed. The present revision arises out of the aforesaid orders and proceedings.

2. What is not in dispute is that the applicant, herein, intended to purchase a tractor, trolley and another agricultural equipments for agriculture activity, for which purpose, he approached the tractor agency of respondent No.2/Prakash Agrawal and respondent No.3/Arun Agrawal through a mediator respondent No.1/Dauram Sahu. The vehicle was sold to the applicant/complainant by respondents No.2 & 3 under a finance scheme, wherein, bank of which, respondent No.4 was the Branch Manager, had financed the cost of the vehicle and other equipment. When later on, the applicant failed to repay the loan, the vehicle was seized by financial institution which led to a dispute and then, at this stage, the complainant filed a complaint making an allegation of commission of offence under Section 420, 467 and 471 read with Section 34 of IPC alleging that he was subjected to fraud whereby on the basis of the property document belonging to the family members of the complainant including his dead mother, the financier, sales agency and mediator had got their property mortgaged, keeping the complainant in dark, while selling vehicle under finance scheme.

3. Learned trial Court after full fledged trial found that there was no element of cheating because the complainant, himself, was the beneficiary of the whole transaction and it was wholly improbable that without notice and knowledge of the complainant, any security against the property of other members of his family would be created. On appeal filed, learned Appellate Court concurred with the finding. It is not in dispute that the appellant complainant was the beneficiary of the transaction of sale and purchase of vehicle through Bank Finance. The property papers of the family members of the complainant could not be procured either by the tractor agency or by the banking institution without involvement of the present complainant. He never made any complaint until he, himself, failed to repay the loan, due to which, the vehicle was seized. Learned Courts belows have meticulously examined the evidence on record and reached to this conclusion which is much more probable than allegation leveled by the complainant that without his notice and knowledge, property belonging to his family member was secured against repayment of loan which he had taken from the bank towards purchase of tractor, trolley and other agricultural equipment for himself. There is no merit in this revision and the revision is, therefore, dismissed in *limine*.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge