

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 190 of 2019

Raspal Singh, S/o. Late Shri Surta Singh, Aged About 41 Years, R/o. House No.B-18, Rama Life City, Police Station Chakarbhatta, District Bilaspur, Chhattisgarh, Present Address : Near Balani Nursing Home, Shubham Vihar, Bilaspur, Police Station Civil Line, Bilaspur, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Station Civil Line Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondent

For Petitioner : Mr. Rishi Rahul Soni, Advocate

For State/ Respondent : Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

01.02.2019

Heard

1. The present petition is for quashing of the Criminal Case No.1236/2017 arising out of Crime No. 139/2017 pending before the Judicial Magistrate First Class, Bilaspur.
2. It is contended by the petitioner that the complainant has obtained a loan from the Bank and the arrangements were arrived at in between the petitioner and complainant that the amount would be paid by the petitioner as per the agreement and therefore it would show that no fraudulent act is done. It is stated in respect of cheque given by the petitioner to the complainant having been bounced, a proceeding under Section 138 of Negotiable Instrument Act was commenced. It is contended that the entire series of transaction will lead to show that it is out & out civil

transaction in between the parties, which has been given a criminal colour.

3. Per contra, learned State counsel opposes the argument and submits that before the Court below the charges have been framed and therefore this petition has become infructuous. He further went through the statement of the complainant and the report and would submit that fraud has been played on the complainant, therefore, at the threshold the complaint cannot be quashed.
4. Heard learned counsel appearing for the parties and perused the documents and the statement of the complainant Uttampuri Goswami. It has been stated that the complainant came into allurement of the petitioner who agreed him to get the house constructed along-with the plot and in lieu of such fact, the petitioner who was working as Builder advised him to take Rs.5 Lakhs personal loan from the Bank with an assurance that the money may be given to him which would be facilitated for purchase of the plot so that the document of property can be placed as a mortgage to obtain home loan. Subsequently, when personal loan was obtained from the Bank by the complainant and money was paid to the petitioner, though the sale deed of plot was to be done but it never come to fore. Thereafter, after frequent follow up it revealed that no sale deed has been created to obtain home loan and the cheque which was given as security also bounced.
5. Considering the documents and the statement of the complainant, it appears that prima facie the charges cannot be quashed unless it is tried by the Court. It is not a case on a plain reading of the statement and the evidence that the petitioner can be exonerated.

The defence of the petitioner, at this stage, cannot be looked into as it involves a *mens rea*. All these facts can be established during the trial only, therefore, I am not inclined to entertain this petition to quash the charges. Accordingly, the petition is dismissed.

**Sd/-
(Goutam Bhaduri)
Judge**

Ashok