

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 422 of 2014**

1. Gourishankar Agrawal S/o . Shri Teluram Ji Agrawal Aged About 50 Years R/o. 2-17, Sector Extension, Awanti Vihar, P.S. Telibandha, Civil And Rev. Distt. Raipur, Chhattisgarh
2. Sonand Agrawal S/o .Shri Teluram Ji Agrawal Aged About 37 Years R/o. 2-17, Sector Extension, Awanti Vishar, P.S. Telibandha Civ.And Rev.Distt. Raipur, Chhattisgarh

---- Petitioners

Versus

- Anil Khubchandani S/o . Late Shri Biharilal Khubchandani Aged About 42 Years R/o. B-19, Aashiyana Phase-2, Vijay Nagar Chouck, Awanti Vihar, P.S. Telibandha, Civil And Rev. Distt. Raipur, Chhattisgarh

---Respondent

For Petitioners	: Shri JK Gupta, Advocate on behalf of Shri Devershi Thakur, Advocate
For Respondent	: Shri Akshay Uppal, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****27.11.2020.**

1. By filing this petition, the petitioners have questioned the legality, validity and propriety of impugned order dated 02.02.2013 passed by Judicial Magistrate First Class, Raipur by which complaint filed by the respondent/complainant for the offence under Section 138 of the Negotiable Instruments Act has been entertained and process has been issued against the petitioners.
2. Learned counsel for the petitioners submits that cheque issued

by the petitioners has been forged/tampered by the respondent/complainant by writing his own company's name "Muskan Traders" in the said cheque and also intentionally tampered the cheque and in the opinion of the Hand Writing Expert cheque has been found tampered which has also been submitted before the trial Court and in view of the decision of the Madras High Court in the matter of **Amaravati Chits Investment Vs. TM Vaidyanathan** reported in **2005 Criminal Law Journal 576** no offence is made out against the petitioners therefore, impugned order directing issuance of process dated 02.02.2013 deserves to be set aside.

3. Learned counsel for the respondent submits that trial has already been completed except recording evidence of defence witnesses. Therefore, present petition deserves to be dismissed and the petitioners may be directed to join further proceedings of the trial.

4. I have heard learned counsel for the parties and perused the record.

5. Admittedly, the trial court has completed the trial and only the defence witnesses have to be examined. Even otherwise, the plea that the cheque has been forged is a plea which has to be considered by the trial Court in the light of the evidence brought before the Court for which the petitioners are at liberty to adduce evidence. At this stage, no interference is warranted by this Court under Section 482 of the CrPC.

6. Accordingly, the petition deserves to be and is hereby dismissed. However, the trial Court is directed to conclude the trial within 45 days

from the date of receipt of a copy of this order as the trial is pending for fairly long time.

Sd/-

(Sanjay K. Agrawal)

JUDGE

Bini