

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.321 of 2020**

Tikaram Rathiya S/o Manbahal Singh Rathiya Aged About 44 Years
Occupation- Job (Halka Patwari), Village- Baikunthpur, Patwari Halka
No. 47 Raigarh, Resident Of Savitri Nagar Kotra Road, Raigarh, Tahsil
And District- Raigarh Chhattisgarh **---- Applicant**

Versus

1. Ramkumar Choudhary S/o Ishwar Prasad Choudhar Aged About 60 Years Occupation- Farmer/lawyer, Resident Of Ward No.12, Jailpara, Sarangarh, Tahsil Sarangarh, District- Raigarh Chhattisgarh
2. State Of Chhattisgarh Through- District Magistrate, Raigarh, District- Raigarh Chhattisgarh **---- Respondents**

MCRCA No. 411 of 2020

Sanjay Bhushan Pandey S/o Brijbhushan Prasad, Aged About 49 Years
Occupation Agriculturist, R/o Bade Mathpara Ward No.13, Sarangarh,
Tahsil - Sarangarh, District- Raigarh, Chhattisgarh **---- Applicant**

Versus

1. State Of Chhattisgarh Through The District Magistrate Raigarh, District- Raigarh, Chhattisgarh
2. Ramkumar Choudhari S/o Ishwar Prasad Aged About 60 Years R/o Jailpara, Sarangarh, Tahsil Sarangarh, District- Raigarh, Chhattisgarh., **---- Respondents**

For Applicants	:	Mr. Arvindra Shrivastava and Mr. Raghvendra Pradhan, Advocates for respective applicants.
For Respondent/State	:	Mr. Alok Bakshi, Additional A.G.
For Respondent/Complainant	:	Mr. B.N. Nande, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

15/07/2020

Heard.

1. The applicants are apprehending their arrest in connection with Complaint/Criminal Case No.45/2019 pending before the Judicial Magistrate

First Class, Sarangarh, District Raigarh for alleged commission of offence under Section 120-B, 167, 420, 467, 468, 471, 506, 34 of IPC.

2. This order shall govern disposal of both the applications as they arise out of the same complaint case number.

3. The respondent Ramkumar filed complaint against Tikaram Rathiya, Patwari, Mohd. Hanif, Seller and Sanjay Bhushan, Purchaser alleging that Mohd. Hanif sold a parcel of land to co-accused Sanjay Bhushan vide registered sale deed dated 19.05.2009. In the complaint, it has been stated that while selling his property, Mohd. Hanif wrongly described the boundaries of the land under sale. According to the complainant, on one side of the plot under sale, there existed land of the complainant but the revenue records were interpolated and changed and the boundary was also changed. In this manner, the land of the complainant has been grabbed. The allegation against Tikaram Rathiya, Patwari, is that at the relevant time, he was the Patwari and upon enquiry, it was found that the revenue records were changed by Tikaram Rathiya, which is factually incorrect and by this change, Tikaram included the land of the complainant showing it to be a part of the land of seller Mohd. Hanif.

4. Learned counsel appearing for the applicants would submit that property was sold by Mohd. Hanif to Sanjay Bhushan by registered sale deed dated 19.05.2009. Mohd. Hanif has already been granted benefit of anticipatory bail. It is argued that dispute is merely of civil nature and in fact, a civil suit has already been filed by Mohd. Hanif in the year 2005 against the complainant Ramkumar and one Mohd. Azim in respect of sale of another parcel of land. Learned counsel for the applicants argues that an attempt has been made to criminalize an existing civil dispute between the parties. It is submitted that the maps or other measurement at the spot taken and other

documents prepared by the revenue officers are subject to enquiry in various proceedings but that does not mean that the applicants are involved in commission of any offence but it is a case of bonafide assumption of title on the basis of sale deed dated 19.05.2009.

5. On the other hand, learned counsel for the complainant-Ramkumar would submit that in the present case, Mohd. Hanif connived and conspired with Tikaram Rathiya and Sanjay Bhushan to grab the property of the complainant and for this purpose, the relevant records were changed showing different boundary of the plot under sale vide sale deed dated 19.05.2009. Though the land of the complainant is adjoining the plot under sale, his land was not shown in the sale deed and a part of the land belonging to complainant was also included in the sale deed and on that basis, he was dispossessed. He would submit that this could be facilitated because the Patwari, Tikaram Rathiya, himself changed the records without any authority and enquiries made at the level of higher authority in the revenue department it has come that Tikaram Rathiya illegally and unauthorizedly altered the revenue records.

6. Taking into consideration the submission of learned counsel for the parties, the documents which have been placed on record, a copy of complaint, on prima facie consideration, this Court finds that the dispute is arising because in the sale deed dated 19.05.2009, by which, Mohd. Hanif sold land to Sanjay Bhushan, according to complainant Ramkumar, the boundaries have not been correctly described. It appears that there existed a dispute with regard to boundaries and contesting claim of the party with regard to availability of land at the spot and the extent of land covered under sale deed dated 19.05.2009. Moreover, this Court finds that in 2005 itself Mohd. Hanif, one of the accused, has already filed a suit against the complainant

Ramkumar and his vendor Mohd. Azim raising dispute in respect of another parcel of land in the same area and therefore, it appears that there are existing disputes with regard to extent of land owned and possessed by different parties in the area. Further, co-accused Mohd. Hanif has already been granted benefit of anticipatory bail. Therefore, in these circumstances, present appears to be a fit case for grant of anticipatory bail. Accordingly, both the applications are allowed.

7. Accordingly, it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicants shall abide by all the following terms and conditions -

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any Police Officer.
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

It is made clear that the observations made in this order are only limited for the purposes of granting anticipatory bail. The trial Court shall not be influenced by the observations made in holding trial in the present case.

Sd/-

(Manindra Mohan Shrivastava)

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