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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 349 of 2020

Ejaz Ahmed, S/o Late Shri Mansoor Ahmad Baksh, aged about 30 years, Jooni Line City Kotwali, Civil and Revenue District – Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station- Tarbahar, District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant/s	:	Shri Sumit Shrivastava, Advocate
For State	:	Shri Sudeep Verma, Dy. G.A.
For Objector	:	Shri Azad Siddiqui, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

26/06/2020

Heard.

The applicant is apprehending his arrest in connection with Crime No.14/2020 registered at Police Station – Tarbahar, District – Bilaspur, (CG) for alleged commission of offence under Sections 420,467,468 and 471 of the IPC.

2. The prosecution case is that the applicant who was working in the employment of the complainant, made forged signatures of the applicant in the nature of cheques, which were available with him, entrusted by the complainant and got huge amount transferred in his own account. Further allegation is that the applicant, taking undue advantage of his position as an employee of the complainant, prepared forged agreement of sale of the property belonging to the complainant and his brothers and later, on the strength of forged documents, the agreement of sale entered with number of persons, the intending purchasers started claiming that they are entitled to execution of sale deed in their favour and some of them have approached the Civil Suit and some of them have lodged complaint in the police station.

3. The submission of learned counsel for the applicant is that the applicant was not the employee, but the business partner in the development of colony over the land jointly owned by the complainant and his brothers. According to him, under the business transaction, payments used to be made to him by the complainant and even according to complainant as stated in the FIR, about 46 lacs have been given to the applicant. Further, even applicant has transferred amount in the account of the complainant. According to him, not all transactions are done by cheque and many transactions are on line transactions, by which the complainant has transferred money in the account of the applicant and it is wholly improbable that the applicant would forge signatures of the complainant. It is also submitted that as far as agreement is concerned, the applicant has started disowning the agreements where intending purchasers have paid huge amount to the complainant and started making complaint in the police station against the complainant that they are entitled to execution of sale deed in their favour.

4. When this Court enquired from the State counsel as to whether Investigating Officer has seized those disputed cheques deposited with the bank and the original agreement, on the basis of which, some intending purchasers are claiming execution of sale deed in their favour from the complainant, learned State counsel submits that till date, those cheques and agreement have not been seized nor sent for handwriting expert reports. Upon further enquiry, learned State counsel submits that neither the statement of the bank official nor the statements of intending purchasers have been recorded by the Investigating Officer.

5. The manner in which, investigation is being made to enquire allegation of forging signatures by the applicant in the cheques and the agreement has surprised this Court as the Investigating Officer has neither seized those cheques nor the agreement. He has not even recorded the statements of bank officials nor the intending purchasers. When, this Court, further enquired learned State counsel states that no offence registered against the intending purchasers that on the basis of the forged document they are claiming execution of sale deed.

6. It appears that having registered offence against the present applicant, Investigating Officer has done nothing material. Whether or not applicant is being falsely implicated in a business transaction with the complainant is essentially dependent upon the report of the handwriting expert on the cheques deposited with

the bank and the agreement, which the complainant is disowning as forged documents. The Investigating Officer is required to take necessary steps to seize cheques and agreement and immediately send them for report of the handwriting expert.

7. At this stage, this Court is inclined to disposed off the application with liberty to the applicant to revive the application after one month, so that by that time, the Investigating agency obtains handwriting expert report and submits before this Court, in the event, application is renewed.

8. Accordingly, the application is disposed off at this stage with liberty to revive the same after one month.

Sd/-

(Manindra Mohan Shrivastava)
Judge

yasmin