

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 401 of 2014

1. Ishwari Prasad, S/o Heeradhar Patel, Aged About 28 Years, R/o Village Badadarha, P.S. and Tah. Dabhra, Civil and Rev. Distt. Janjgir - Champa, Chhattisgarh

---- Applicant

Versus

1. Jagdish Prasad, S/o Rooplal, Aged About 55 Years, R/o Village Badadarha, P.S. and Tah. Dabhra, Civil and Rev. Distt. Janjgir - Champa, Chhattisgarh
2. Mithilesh Singh, S/o Anal Kumar Singh, Aged About 32 Years, R/o Village Badadarha, P.S. and Tah. Dabhra, Civil and Rev. Distt. Janjgir – Champa, Chhattisgarh.
3. State of Chhattisgarh, S/o Through The Distt. Magistrate Janjgir, Distt. Janjgir- Champa, Chhattisgarh

---- Respondents

CRR No. 399 of 2014

1. Ishwari Prasad, S/o Heeradhar Patel, Aged About 28 Years, R/o Village Badadarha, P.S. and Tah.-Dabhra, Civil and Rev. Distt. Janjgir- Champa, Chhattisgarh

---- Applicant

Versus

1. Jagdish Prasad, S/o Rooplal Aged About 55 Years R/o Village Badadarha, P.S. and Tah.-Dabhra, Civil and Rev. Distt. Janjgir - Champa, Chhattisgarh
2. State of Chhattisgarh, S/o Through Distt. Magistrate Janjgir, Distt. Janjgir - Champa, Chhattisgarh

---- Respondents

CRR No. 400 of 2014

1. Kusal Prasad, S/o Heeradhar Patel, Aged About 24 Years, R/o Village Badadarha, P.S. and Tah.-Dabhra, Civil and Rev. Distt. Janjgir - Champa, Chhattisgarh

---- Applicant

Versus

1. Jagdish Prasad, S/o Rooplal, Aged About 55 Years, R/o Village Badadarha, P.S. and Tah. - Dabhra, Civil and Rev. Distt. Janjgir - Champa, Chhattisgarh
2. State of Chhattisgarh, S/o Through The Distt. Magistrate Janjgir, Distt. Janjgir - Champa, Chhattisgarh

---- Respondents

For applicants :Mr. Vivek Tripathi, Advocate.

For Respondent No.1 :Mr.Vimal Kumar Tondey, Advocate.

For respondent No.2/State :Mr. C.B. Kesharwani, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on board

24/02/2020

Heard.

1. Since the above revisions petitions arise out of the order dated 13.3.2014 passed by the Second Additional Sessions Judge, Sakti, District-Janjgir-Champa, the same are being decided by this common order.
2. The respondent had filed a complaint against the applicant in all three cases praying for registration of offence against them under Sections 420, 427 & 120B of IPC. The learned trial Court after preliminary inquiry, passed the order dated 4.4.2013 dismissing the complaint under Section 203 of CrPC. This order was challenged by the respondent by filing Criminal Revision No.34/2013. The revisional Court allowed the revision vide impugned order, set aside the order dated 4.4.2013 passed by the trial Court and ordered for taking cognizance against the applicants in all three cases for the offence under Sections 420, 467, 468, 471 & 192 of IPC.
3. It is submitted that the learned trial Court had correctly passed the order after appreciating the evidence in inquiry. It was established with prominence that the dispute between applicants and respondents is of

civil nature. The learned Revisional Court has not made proper appreciation of the evidence in inquiry and arrived at a wrong conclusion. The order for taking cognizance in offences mentioned herein-before is also erroneous and against the provisions of law, therefore, it is prayed that these revision petitions be allowed and the applicants in all the cases be given relief, as prayed for.

4. Learned counsel for respondent, who is common in all three cases submits that the learned revisional Court has not committed any error in passing the impugned order. Evidence is present in the inquiry before the trial Court to show that the applicants in all the cases have made use of forged and fabricated documents for executing sale-deed in favour of M/s D.B. Power Limited Company, therefore, it is clear case of cheating, misappropriation, forgery of valuable security and making use of forged documents as original etc. On the contrary, the learned trial Court has not appreciated the evidence present and drawn a wrong conclusion, therefore, there is no need of any interference in the impugned order.
5. I have heard both the parties and perused the documents on record.
6. By the impugned order the learned revisional Court has drawn a conclusion that the offences under Sections 420, 467, 468, 471 & 192 of IPC are made out and it is on that basis the impugned order has been passed setting aside the order of the trial Court and directing for taking cognizance of the offences. A bare perusal of the order itself makes it clear that the learned revisional Court has exceeded its jurisdiction in passing the impugned order. The scope of revisional Court under Section 397 of IPC is very limited. It can examine any order passed by the Court below only on the point of legality, propriety and correctness of the order. The power of the Sessions Court under Section 399 read with 401 of CrPC that a Sessions Court may exercise the power of appellate Court under Section 386 of CrPC, is not a absolute power and therefore in given circumstances such an exercise could not have been done. The stage of proceeding before the Court was initial stage for taking cognizance on the complaint filed by the respondent, therefore, such an endeavor could not have been made to appreciate and analyse the evidence and come to a direct conclusion

that some offences are made out or not. In the observation of the revisional Court it would have been sufficient that the learned Court below has not appreciated the evidence in inquiry in proper perspective and nothing more than that would have been possible, if the case is like that.

7. The another illegality committed by the revisional Court is this, that it has ordered for taking cognizance of the offences mentioned herein above. There is no need to remind that the revisional Court is a Court of Sessions and any Sessions Court can take cognizance under any offence when the case is committed to it and only after the committal of cases triable by Sessions Court under the provision of Section 193 of CrPC. The power of taking cognizance lies executively with Magistrate under Section 190 of CrPC. Therefore, in a complaint case it is only the Court of Magistrate who has the power and jurisdiction to take cognizance under the provision of Section 190 CrPC. Hence, the impugned order suffers with illegality and incorrectness which is liable to be set aside.
8. In view of the above, this revision is allowed and the impugned order is set aside. Revision petition filed by the respondent concerned before the Sessions Court is restored to its original number and the revisional Court is directed to consider and decide the same afresh in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge