

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 22-01-2020

Passed on 27-02-2020

WPCR No. 1211 of 2019

1. Chhedilal Agrawal S/o Late Ram Gopal Agrawal Aged About 69 Years R/o 410, Gupta Gali, Main Road, Korba, Tahsil And District Korba, Chhattisgarh.
2. Ishwar Singh S/o Late Pancham Singh Aged About 50 Years Agrasen Chowk, Bajrang Gali, Korba, District Korba, Chhattisgarh.,

---- Petitioners

Versus

1. State of Chhattisgarh Through- In-Charge Police Station- Balco Nagar, Korba, District- Korba, Chhattisgarh.
2. Tularam Bhardwaj S/o Terasram Ram Bhardwaj, Earlier Posted And Working As Tahsildar Korba, District Korba, Chhattisgarh. At Present Posted As Tahsildar Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For petitioners : Mr. Anand Shukla, Advocate

For respondent No.1/State : Mr. Dinesh Tiwari, Dy.G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Order

1. The petitioners have preferred this petition under Article 226/227 of the Constitution of India for quashing the FIR dated 21-6-2018 registered as Crime No. 264/2018 for offence under Sections

191, 193, 195, 211, 420 read with Section 34 and 120-B of IPC, 1860 at Police Station Balco Nagar as well as the charge-sheet in connection with aforesaid crime.

2. As per version of the petitioners, there is land dispute regarding survey No. 188/1F area 0.07 acres and 175/8 area 0.07 acres between the petitioners and one S.M. Sarangpani which is situated at Korba, Pawari Halka No.9, Revenue Circle, Korba, District Korba, CG. Respondent No.2 threatened the petitioners on many occasions. The petitioners have filed a complaint against the respondents before various authorities much before registration of the present crime. Respondent No.2 initiated *suo moto* revenue proceeding on the ground that on 25-9-2017 the petitioners have left some documents. As per petitioners, documents were received under Right to Information Act and proceeding of Revenue Case No. 47-A-17/2016-2017. When the Reader of the Court of Tahsildar, Korba checked the record of Tahsildar, it is found that the proceeding of said revenue case is fake and fabricated and thereafter respondent No.2 passed an order directing the police authorities to register FIR against the petitioners. The entire proceeding is malicious and arbitrary and the petitioners have been falsely implicated. In the present case the police authorities have not investigated the signature of respondent No.2 as well as S.M. Sarangpani and there is nothing on record regarding involvement of the present petitioners in the crime in question. Civil

remedy is available in the present case, therefore, initiation of criminal proceeding is clearly abuse of process of the court, therefore, FIR as well as charge-sheet against the petitioners be quashed.

3. Learned counsel for the petitioners submits as under.:

- i) Charge-sheet filed under Actions 193, 195 and 211 is against the provisions of Section 195 of Cr.P.C., 1973 because no court shall take cognizance except on the complaint in writing of the court concerned or by such officer of the court as that court may authorise in writing in this regard or some other to which that court is subordinate.

Reliance has been placed in the matter of **M/s. Zandu Pharmaceutical Works Ltd and others vs. Md. Sharaful Haque and others** , reported in 2004 AIR SCW 6185, **Anand Kumar Mohattrra and another vs. State (Govt. of NCT of Delhi) Department of Home and another**, reported in AIR 2019 SC 210, **C. Muniappan and others vs. State of**

Tamilnadu, reported in (2010) 9 SCC 567, M.S. Ahlaswat vs. State of Haryana and another, reported in AIR 2000 SC 168 and Narendra Kumar Srivastava vs. State of Bihar and others, reported in (2019) 3 SCC 318.

4 On the other hand, learned counsel for the respondent State would submit that the disputed land was ordered to be recorded in the name of S.M. Sarangpani as per order dated 28-6-2016 passed by the Tahsildar, Korba, in Revenue Case No. 64-A-6A/20150-2016 and thereafter documents related to Revenue Case No. 47-A-70/2016-2017 were prepared by both the petitioners for grabbing land of actual owner namely S.M. Sarangpani.

5. I have heard learned counsel for the parties and perused record of the court below.

6. Both petitioners have filed an application for certified copy of the order sheet and other relevant documents relating to Revenue Case No.47-A-70/2016-2017 but when the Reader checked the record of Tahsildar, it is found that no such case was registered and last case which was registered in the said Court in the year 2016-2017 was Revenue Case No. 40-A/70/2016-2017, therefore, charge of

conspiracy and cheating was found against the petitioners and for offence under Sections 420 and 120-B of IPC, provisions of Section 195 of Cr.P.C., is not attracted.

7. Charge sheet has already been filed before the court at Korba and the petitioners are free to submit their case before the said court and it is not a case of abuse of process of any court and no order is required to secure ends of justice because the petitioners have opportunity to defend their case before the trial court from all angles, therefore, no case for quashing the proceeding of trial court or quashing the FIR is made out. From the record, it appears that the petitioner Chhedilal Agrawal was party in Revenue Case No. 64/A-6A/2015-2016 in which order was passed in favour of S.M. Sarangpani vide order dated 28-6-2016 and it is directed that the land in question be mutated in the name of said S.M. Sarangpani. It appears from the order that after passing of the order both petitioners have filed an application for original record of Revenue Case No. 47-A/70/2016-2017. When the Reader of the court of Tahsidar, Korba, searched for record and searched case register, it is found that no revenue case bearing No. 47-A-70/2016-2017 was registered in the said court. It is found that last case which was registered in the said court in the year 2016-2017 was Revenue Case No. 40/A-70/2016-2017. From the statements of S.M. Sarangpani, Vijay Bharti and Copiest Amritlal Rathore, it is found that no such case was registered in the court of

Tahsildar, Korba and no such case was filed by S.M. Sarangpani in the said court that is why FIR was lodged against the petitioners and after investigation both were charge-sheeted. Charge sheet was filed before the competent court at Korba and the trial of the said court is yet to begin and it is for the trial court to consider the police report and documents.

8. Taking into consideration totality of the fact, it is not a case where interference of this court is required to secure ends of justice and it is not a case which can be said to be abuse of process of court. In view of the above, argument advanced on behalf of the petitioners is not sustainable and the case law cited on their behalf are clearly distinguishable to the facts of the present case.

9. Accordingly, the instant petition is dismissed at motion stage itself. Consequently, all the interim applications stand disposed of.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju