

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 2689 of 2019**

Rakesh Tiwari S/o Late Ramavtaar Tiwari, Aged about 38 years, R/o Kushalpur, Raipur, Tahsil and Distt. Raipur, Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh through Distt. Magistrate Bemetara, Distt. Bemetara, Chhattisgarh.
2. Ramesh Tiwari S/o Late Ramavtaar Tiwari, Aged about 46 years, R/o Bohara Nivaas, Near Ram Mandir, Saza, Tahsil Saza, Distt. Bemetara, Chhattisgarh.

--- Respondents

For Petitioner	:-	Mr. Devershi Thakur and Mr. Shubham Thakur, Advocate
For State	:-	Mrs. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

12/02/2020

1. This petition under Section 482 of the Cr.P.C. is directed against the impugned order dated c by which learned Additional Session Judge, Bemetara has declined to interfere with the order dated 09/04/2019 by which learned trial Magistrate dismissed the complaint filed by the petitioner for taking cognizance of offence under Sections 193, 194, 280, 420, 467, 468 and 389 of the IPC against respondent No. 2 herein.

2. Mr. Devershi Thakur and Mr. Shubham Thakur, learned counsel for the petitioner would submit that the impugned order deserves to be set aside as it is unsustainable and bad in law.
3. I have heard learned counsel for the petitioner at length.
4. Respondent No. 2 herein filed a criminal complaint case against the petitioner bearing No. 536/2016 on 08/07/2014 under Section 138 of the Negotiable Instruments Act, 1881 which ultimately, resulted in acquittal of the petitioner. Thereafter, the petitioner filed a complaint under Section 200 of the Cr.P.C. for the above-stated offences against respondent No. 2 whereby learned trial Magistrate, by order dated 09/04/2019 declined to take cognizance of the aforesaid offences against respondent No. 2 holding that no *prima facie* case is made out against him against which the petitioner preferred a revision which was also dismissed by the impugned order dated 09/04/2019.
5. In my considered opinion, the order passed by the trial Magistrate affirmed by the revisional Court holding that no such *prima facie* case is made out against respondent No. 2 for taking cognizance of the aforesaid offences is a purely discretionary order based on material available on record as the

petitioner was acquitted in the earlier complaint case by giving him benefit of doubt and it was not a case of honourable acquittal. The said finding is recorded by the both the Courts below on the basis of correct appreciation of facts and law in which I do not find any perversity or illegality warranting interference under Section 482 of the Cr.P.C.

6. The present petition, being devoid of merits, stands dismissed at the stage of admission without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet