CGHC010197292025 2026:CGHC:46622-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 736 of 2025

Order Reserved on : 17.09.2026

Order Delivered on : 04.11.2026

- Rajiv Chaubey S/o Late Basant Kumar Chaubey Aged About 56 Years President Smriti Grih Nirman Sahkari Sanstha Maryadit, R/o Office At Smriti Nagar Bhilai, Tahsil And District Durg (C.G.)

... Applicant(s)

versus

1. Pawan Kumar Agrawal S/o O.P. Agrawal Aged About 68 Years R/o A/137, Street No. 39, Police Station Supela, Bhilai, Tahsil And District Durg (C.G.)
2. S.R. Sharma S/o Late S. Someshwar Rao Aged About 84 Years R/o C/23, Street No. 7, Smriti Nagar, Bhilai, Tahsil And District Durg (C.G.)
3. State Of Chhattisgarh Through Station House Officer Police Station Supela, Bhilai, Tahsil And District Durg (C.G.)

... Non-applicant(s)

For Applicant(s)	:	Mr. B.P. Sharma and Mr. M.L. Sakat, Advocates
For Non-Applicants No. 1 and 2	:	Mr. T.K. Jha, Sr. Advocate with Mr. Parth Kumar Jha, Advocate
For State	:	Ms. Anusha Naik, Dy. Govt. Advocate

D.B.:- Hon'ble Shri Justice Narendra Kumar Vyas &
Hon'ble Shri Justice Sudhir Kumar

(CAV Order)

***Per* Narendra Kumar Vyas J.**

1. Heard on admission.

2. The Revision is admitted for hearing.

3. With the consent of counsel for the parties, the matter is heard finally.

4. The present criminal revision under Section 438 and 442 of the Bhartiya Nagrik Suraksha Sanhita, 2023 arises out of concurrent judgment of acquittal dated 08.04.2025 passed by the learned 7th Additional Session Judge, Durg (C.G.) in Criminal Appeal No. 42/2025 and judgment dated 04.01.2025 passed by the learned Judicial Magistrate First Class, Durg in Criminal Case No. 3324 of 2020, whereby the Non-applicants No. 1 and 2 have been acquitted of the Charges punishable under Sections 420, 467 and 468 read with Section 34 of the IPC.

5. Brief facts as reflected from the record are that the present applicant/complainant who is President of Smriti Grih Nirman Sahkari Society, Smriti Nagar filed written complaint (Ex.P/33) before the Outpost Smriti Nagar, Police Station – Supela Bhilai, District – Durg (C.G.) mainly contending that:-

   A. Shri Afroz Khan, President of the Youth Congress, Bhilai, lodged a complaint before the Secretary, Cooperative Department, Government of Chhattisgarh, the Registrar of Cooperative

Societies, Government of Chhattisgarh and the Principal Secretary, Housing and Environment Department, Government of Chhattisgarh, alleging that Non-applicants No. 1 and 2, had committed fraud against the Society. The aforesaid three officers vide their respective letters dated 29.04.2018, 20.05.2019 and 25.06.2019, forwarded the matter to the Joint Registrar, Cooperative Societies, Durg, with directions to conduct an enquiry into the allegation leveled in the complaint. The Office of the Deputy Registrar, Cooperative Societies, Durg, appointed Shri A.K. Singh, Senior Cooperative Inspector, as an Enquiry Officer. On 20.05.2020, the Enquiry Officer submitted the enquiry report, before the Deputy Registrar, Cooperative Societies, Durg wherein it was recorded that the then Vice-President of the Society, Non-applicant No.2, and Non-applicant No. 1 had resorted to forgery and thereby obtained an unlawful benefit, causing wrongful loss to the Society. It was further observed that Plot No. B/630, admeasuring 2,400 square feet, which stood registered in the name of Non-applicant No.1, had not been surrendered in favour of the Society. Nevertheless, allegedly on account of the unlawful acts of Non-applicant No.2, the then Vice-President of the Society, Plot No. A/137A, admeasuring 3,760 square feet, came to be registered in favour of Non-applicant No.1.

B. The Enquiry Officer further recorded that the actual consideration for the said transaction could not be treated as having been received by the Society, since, as on the date of the enquiry, both plots continued

to stand recorded in the name of Non-applicant No.1 in the revenue records. It was also observed that Plot No. A/137A did not form part of the sanctioned and approved layout plan in force on the date of its registration. Accordingly, the acts attributed to Non-applicant No.1 were found to be serious and unlawful acts allegedly committed intentionally against the interests of the Society, warranting action under the provisions of the Indian Penal Code. The report further observed that Smriti Grih Nirman Sahakari Sanstha Maryadit, Smriti Nagar, Bhilai, was competent to initiate proceedings against Non-applicants No 1 and 2 under the provisions of the Indian Penal Code as well as the Chhattisgarh Cooperative Societies Act. Thereafter, vide letter No. Updu/Shika/2020/511 dated 02.06.2020, the Office of the Deputy Registrar, Cooperative Societies, directed Smriti Grih Nirman Sahakari Sanstha Maryadit to initiate appropriate legal action against the persons found responsible, in accordance with law, on the basis of the findings recorded in the factual enquiry report submitted by the Enquiry Officer, and to inform the Office of the Deputy Registrar of the action taken. In compliance of the aforesaid directions, the Society convened an emergency meeting of its Board of Directors. The directors present at the meeting unanimously resolved to lodge a First Information Report against the persons found responsible.

C. On the basis of the complaint FIR bearing Crime No. 366/2020 (Ex.P/41&42) for the offence punishable under Section 420, 467 and 468 of the IPC was registered. After usual investigation, charge-sheet was filed before the Trial Court against the accused persons

for commission of an offence punishable under Section 420, 467 and 468 of the Indian Penal Code (IPC). The Trial Court framed charges against the accused persons for the offences punishable under Sections 420, 467 and 468 read with Section 34 of the IPC. In support of its case, the prosecution examined Anuranjan Kumar Singh (PW-1), Santosh Tiwari (PW-2), Hemant Chandrakant Tapre (PW-3), Rajiv Choubey (PW-4) and Pramod Srivastava (PW-5). The defence did not examine any witness in support of its case but he was examined under Section 313 of the Cr.P.C. wherein in Question No.37 he has categorically stated that after surrender of Plot No. B/630, the sale deed for Plot No. A137/A has been executed in his favour. Upon appreciation of the evidence adduced before it, the Trial Court, vide judgment dated 04.01.2025, acquitted the accused persons of the charges punishable under Sections 420, 467 and 468 read with Section 34 of the IPC.

6. Aggrieved with the judgment of acquittal passed by the learned trial Court, the complainant filed Criminal Appeal before the learned Seventh Additional Sessions Judge, Durg who vide judgment dated 08.04.2025 dismissed the appeal. Aggrieved thereby, the appellant has filed present Criminal Revision.

7. Non-applicants No. 1 and 2 have filed reply to the Criminal Revision mainly contending that the society itself informed the Non-applicant No.1 that some part of Plot No. B/630 is coming in the road. Therefore, he wrote a letter to the society on 17.11.97 that he may be allotted the adjoining Plot No. B/629. Later on, it came to knowledge of the Non-applicant No.1 that there is some problem in

the allotment of Plot No. B/629. Therefore, he met the Chairman of the society and requested him to allot another Plot No. A/137/A on 31.01.1998. The Chairman ordered the allotment of Plot No.137/A in his favour after taking deposit of difference of the amount Rs. 47,600/- and Receipt No. 9893 dated 02.02.1998 to this effect was issued. Non-applicant No 1 surrendered the earlier Plot No. B/630 vide surrender deed in favour of the society on 08.11.2004 (Ex.D/3) and on the same date sale deed for plot no. A/137/A (Ex.D/4) was executed. Non-applicant No.1 obtained permission from the Nagar Palika Nigam Bhilai on 03.07.07 and constructed the house and obtained completion certificate from the Nagar Nigam, Durg on 27.10.2010. The present complainant Rajiv Chaubey has filed present complaint in the year 2019 and 2020 much after the disputed plot was already surrendered only to harrass the non-applicants No. 1 and 2, Accordingly, he prayed for dismissal of the Criminal Revision as well as prayed for grant of compensation for mental agony and torture caused to them due to malicious prosecution.

8. Learned counsel for the applicant would submit that the learned Trial Court as well as the learned First Appellate Court have failed to properly appreciate the evidence available on record and have erroneously acquitted the accused persons. He would further submit that the Courts below have failed to undertake a proper and meticulous examination of the enquiry report (Ex. P/31) before passing the impugned judgments dated 04.01.2025 and 08.04.2025. Consequently, the impugned judgments are liable to be set aside.

Learned counsel would further submit that both the Courts below have overlooked the material circumstance that non-applicant No. 1, had not produced any surrender deed before the Enquiry Officer during the course of the enquiry. Moreover, no such document was found in the records of the Society, as is evident from the statement of the Enquiry Officer. According to learned counsel, these circumstances prima facie indicate a conspiracy between non-applicant Nos. 1 and 2 to dishonestly cheat the Society. It is further contended that non-applicant No. 1 had not initiated any proceedings for deletion of his name from the revenue records in respect of one of the plots, either during the enquiry proceedings or prior to the lodging of the FIR.

9. Learned counsel would further submit that in the year 1989, the Society allotted Plot No. B-630, admeasuring 2,400 square feet, to applicant No. 1 and the sale deed was registered on 15.07.1993. However, in the year 1998, claiming that Plot No. B-630 is part of the road, he submitted application for allotment of an alternative plot. Thereafter, Non-applicant 2 allotted Plot No. A-137A, admeasuring 3,760 square feet to Non-applicant No.1. An amount of ₹28,800 paid towards the purchase of Plot No. B-630 was adjusted against the consideration payable for Plot No. A-137A. In addition to the aforesaid adjustment, accused No. 1 paid a sum of ₹47,600 towards the additional area of 1,360 square feet at the rate of ₹35 per square foot. The sale deed executed in favour of accused No. 1 recorded that the Society had received a total consideration of ₹1,31,600. However, the accused had paid only ₹76,400. Thus, the accused

persons caused wrongful financial loss to the Society to the tune of ₹55,000 and thus, non-applicant No. 1 had fraudulently obtained and retained possession of two plots without paying the requisite consideration.

10. Learned counsel would further submit that the sale deed in respect of Plot No. A-137/A was executed on the basis of a forged layout plan of the Society, as revealed by the certified copy of the said layout plan. After, non-applicant No. 1 had submitted an application seeking allotment of Plot No. A-137/A, no proposal for allotment of the said plot in his favour had ever been approved by the Society. Thus, the Courts below have rendered the impugned judgments of acquittal without undertaking a proper and comprehensive appraisal of the exhibited documents and the oral evidence in their proper perspective. The findings recorded by the Courts below are, therefore, perverse and legally unsustainable, warranting interference in the revisional jurisdiction of this Court. To substantiate his submission he would refer to the judgment of Hon'ble Supreme Court in case of **Akalu Ahir and Others vs. Ramdeo Ram {(1973) 2 SCC 583}.** On the aforesaid grounds, learned counsel would pray for setting aside the impugned judgments and pray for allowing the present Criminal Revision.

11. On the other hand, learned Senior Advocate for the Non-applicants No. 1 and 2 would submit that the learned Trial Court as well as the learned First Appellate Court, after due consideration of the oral and documentary evidence available on record, have rightly acquitted the accused persons. The findings recorded by the Courts below are

based on proper appreciation of the evidence and do not suffer from any perversity, illegality or material irregularity warranting interference by this Court in exercise of its revisional jurisdiction. He would further submit that an absence of surrender deed in the records of the Society or its non-production before the Enquiry Officer does not constitute conclusive proof of cheating, forgery or criminal conspiracy. The statements of witnesses are insufficient to establish the essential ingredients of the alleged offences in absence of corroborative evidence demonstrating the dishonest intention of the accused persons.

12. He would further submit that the revisional jurisdiction of this Court is limited and cannot be exercised merely because another view of the evidence is possible. Unless the findings recorded by the Courts below are shown to be manifestly perverse, contrary to the evidence on record, or vitiated by a patent illegality resulting in a miscarriage of justice, interference with concurrent findings of acquittal would not be justified. Therefore, he would pray that the revision petition, being devoid of merit, be dismissed and the judgments of acquittal passed by the Courts below be affirmed.

13. He would lastly submit that non-applicant No. 1 has been retired from the post of Chief General Manager, Coal India, and is a person of repute. It is contended that the applicant, due to personal animosity and acting with a mala fide intention to harass the non-applicants, has initiated the criminal proceedings against them merely because non-applicants No. 1 and 2 had once contested an election against him. He would further submit that the non-applicants

have been subjected to prolong prosecution, mental agony, harassment, suffering and humiliation therefore, he would pray for award of compensation to the tune of ₹2 crore to them. In support of his prayer for compensation, he would place reliance upon the judgment of the Hon'ble Supreme Court in **S. Nambi Narayanan v. Siby Mathews and Others, reported in (2018) 10 SCC 804**, wherein compensation of ₹50,00,000/- was awarded looking to the sufferings endured by the aggrieved party.

14. We have heard learned counsel for the parties and gone through the judgments and also documents placed on record.

15. The principal question that arises for consideration is whether the findings recorded by the learned Trial Court, as affirmed by the learned First Appellate Court, acquitting the non-applicants of the offences punishable under Sections 420, 467 and 468 read with Section 34 of the Indian Penal Code, suffer from any perversity, illegality or material irregularity warranting interference by this Court in the exercise of its revisional jurisdiction.

16. To appreciate the question arises for consideration, it is expedient for this Court to examine the evidence brought on record by the prosecution as well as the evidence of the non-applicants.

17. **Evidence of Mr. A.K. Singh (PW/1):** The witness in his examination-in-chief has reiterated the prosecution case and has stated that in the approved lay out of the Town and Country Planning, plot No. A-137/A has not been mentioned anywhere. At the time of enquiry Plot No. A-137/A and Plot No. B/630 both were

found recorded in the name of Non-applicant No.1 in revenue record. In his cross-examination he has admitted that sale deed for Plot No. B/630 was executed on 15.07.1993 and sale deed for Plot No. A-137/A was executed on 08.11.2004 however, during enquiry the Non-applicant No.1 did not produce the registered sale deed of Plot No. A-137/A i.e. Ex.D/4 and surrender Deed Ex.D/3. He has further admitted that at that time Pramod Kumar Upadhyay was the president and Non-applicant No.2 was vice president of the society and he has recommended for allotment of the plot to Non-applicant No.1. He has further admitted that amount of Rs. 47,600/- was deposited by him as per the direction of the then President who was president at the time of construction of the house over the said plot also. The then President vide Ex. P/17 had directed to deposit the amount and accordingly, he deposited the amount through cheque and thereafter, Non-applicant No.2 has recommended for allotment of the plot. He has further admitted that earlier amount deposited by Non-applicant No. 1 for previous plot has been adjusted in the present transaction and balance amount has been paid by him.

18. **Evidence of Accountant of the Society (PW/3) :- T**his witness in his examination in chief has supported the case of the prosecution. In his cross-examination he has admitted that accused No.1 had filed complaint against the complainant with regard to Maintenance and water tax amount which was even published in the newspaper. He has also admitted that he is working with the complainant since 2007.

19. **Evidence of the complainant (PW/4) :- T**he witness in his examination in chief has reiterated the contents of the FIR. In his cross-examination he has admitted that Afroz Khan is not a member of the society. The relationship between him and the accused persons is cordial. He has further admitted that the President of the society can allot the plot and but cannot cancel the allotment of plot. He has further admitted that if he was having knowledge of Ex.D/03, he would not have lodged FIR against the accused persons and also admitted that neither the Enquiry Officer nor the Society has any knowledge about the surrender deed executed in favour of the society. He has also admitted that he has not issued any notice or sent letter to Non-applicant No.1 to submit surrender deed during Enquiry Proceedings. When accused Non-applicant No. 1 was orally asked to produce the documents he could not produce the documents during the enquiry before the Enquiry Officer on the pretext that he has kept the said document in Locker at Bilaspur. He has further admitted that since the area of the new plot was more than the previous plot, the balance amount was deposited by the accused Non-applicant No.1. He has further admitted that the accused Non-applicant No.1 has neither cheated the society nor has caused financial loss to it. He has also admitted that he has three plots in his possession. He has also admitted that in the society there are about 100 members to whom additional plots have been allotted. He has also admitted that the accused have not manipulated the approved layout (Ex.P/40). He has also

admitted that during his tenure NOC for construction over Plot No. A137A was issued.

20. Considering the evidence available on record, the learned trial Court has recorded its finding in paragraph 49 that the complainant has admitted in his evidence that if the Ex.D/3, which is surrender deed, was provided to the complainant, he would not have lodged the complaint. He has further admitted as recorded in paragraph 52 of the judgment that if the Enquiry Officer would have conducted the enquiry after verifying the facts then the truth could have been elicited by the Enquiry Officer. Thus, the finding of the Enquiry Officer is without correct finding of facts. The learned trial Court has further recorded its finding in paragraph 54 of the judgment that the original complainant Afroz Khan was not examined during the enquiry or during the investigation which would have thrown light on the true facts. Accordingly, it has recorded its finding that the prosecution is unable to prove its case beyond reasonable doubt.

21. Thereafter, the learned appellate Court while appreciating the evidence has recorded its finding that the prosecution is unable to prove the basic ingredients which are required to attract offence of cheating and also recorded its finding in paragraph 31 that the prosecution is unable to establish the offence under Sections 467 and 468 of the IPC as it has not been proved by the prosecution that by fabricating any document, the subsequent sale-deed (Ex.D/4) has been executed without execution of surrender deed (Ex. D/3).

22. Though, this Court in a criminal revision cannot reappreciate the evidence already on record but can very well look into the fact

whether any material irregularity or illegality has been committed by both the courts below in acquitting the Non-applicants No. 1 and 2, therefore, this Court has to examine the finding in the touchstone of the law laid down by the Hon'ble Supreme Court with regard to commission of offence of cheating, forgery of valuable security and forgery for the purposes of cheating.

23. The cheating has been defined under Section 415 of the IPC which reads as under:-

> **415. Cheating.—** Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

24. Section 420 of the IPC deals with punishment for cheating and dishonestly inducing delivery of property which reads as under :-

> **420.Cheating and dishonestly inducing delivery of property.—** Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

25. Hon'ble Supreme Court in case of **V. Ganeshan vs. State Rep. By the Subinspector of Police and others {2026 INSC 265}** has examined the essential ingredients to attract the offence of cheating as defined in Section 415 of the IPC for conviction under Section 420 of the IPC and held as under :-

12. In Iridium India Telecom Ltd. v. Motorola Inc.5, this Court laid down the ingredients of an offence of cheating as defined in Section 415 of IPC. It was observed that Section 415 of IPC has two parts. The first part makes it necessary that the deception by the accused of the person deceived, must be fraudulent or dishonest. Such deception must induce the person to either: (a) deliver property to any person; or (b) consent that any person shall retain any property. The second part also requires that the accused must by deception (2011) 1 SCC 74, paragraph 68 Section 415. Cheating. -- Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'. Explanation. --- A dishonest concealment of facts is a deception within the meaning of this section. intentionally induce the person deceived either to do or omit to do anything which he would not do or omit, if he was not so deceived. Besides, such act or omission must cause or must be likely to cause damage or harm to that person in body, mind, reputation or property. Thus, deception is a necessary ingredient for the offence of cheating under both parts of this section. Besides, the complainant must allege/ prove that the inducement had been caused by the deception exercised by the accused. In other words, such deception must produce the inducement to part with or deliver property, which the complainant would not have parted with or delivered, but for the inducement resulting from such deception. The explanation to the section clarifies that non-disclosure of relevant information would also be treated as a misrepresentation of facts leading to deception.

13. In order to constitute an offence of cheating the intention to deceive should be in existence when the inducement was made. It is necessary to show that a person had fraudulent or dishonest intention at the time of making the promise. Mere failure to keep the promise subsequently cannot be the sole basis to presume that dishonest intention existed from the very beginning.

26. Considering the law laid by the Hon'ble Supreme Court and also considering the finding of both the courts below wherein both the courts have recorded their finding that on the date of execution of the sale-deed D/4 i.e. 08.11.2004 the surrender Ex.D/3 was also

executed, as such, Non-applicant No. 1 and 2 have no intention to cheat the society. The record of the case further demonstrates that the Non-applicant No. 1 in his statement recorded under Section 313 of the Cr.P.C. while answering the question No. 37 has categorically stated that the sale deed of Plot No. A137A has been executed only after execution of surrender deed for plot No. B630.

27. This Court cannot lose sight of importance of the statement recorded under Section 313 of the Cr.P.C. as this Section empowers the Court to examine the accused concerned and an opportunity to explain the incriminating circumstances appearing against him in the prosecution case but also would permit him to forward his own version with regard to his alleged involvement in the crime. The Hon'ble Supreme Court in case of **Naresh Kumar vs. State of Delhi {2024 INSC 464}** has held as under:-

> 11. In the context of the issues thus involved, it is only proper to look into the very object of Section 313, Cr.PC. This aspect has been considered many a times by this Court to hold that it embodies one salutary principle of natural justice viz., audi alteram partem and empowering the Court to examine the accused thereunder is to give the accused concerned an opportunity to explain the incriminating circumstances appearing against him in the prosecution evidence. In the decision in V.K. Sasikala v. State(2012) 9 SCC 771 this Court held that examination of an accused under Section 313, Cr.PC, would not only provide an opportunity to him to explain the incriminating circumstances appearing in evidence against him, but also would permit him to forward his own version with regard to his alleged involvement in the crime. Furthermore, it was held that such an examination would have a fair nexus with a defence he might choose to bring and, therefore, any failure in such examination might take the effect of curtailing his right in the event he took up a specific defence. The general position is that if any incriminating circumstance, appearing against an accused in the prosecution evidence, is

> not put to him it should not be used against him and must be excluded from consideration. At the same time, we may hasten to add that it is a well-neigh settled position that non-examination or inadequate examination under Section 313, Cr.PC, on any incriminating circumstance, by itself, would not vitiate a trial qua the convict concerned unless it has resulted in material prejudice to him or in miscarriage of justice. In the decision in Suresh Chandra Bihari v. State of Bihar AIR 1994 SC 2420 and in Wariyam Singh & Ors. v. State of U.P.AIR 1996 SC 305, this Court held that mere defective/improper examination under Section 313, Cr.PC, would be no ground to set aside a conviction of the accused unless it has resulted in prejudice to the accused. In view of the said position which is being followed with alacrity we do not think it necessary to multiply the authorities on it.

28. Considering the law on the subject, we are of the opinion that the findings recorded by both the courts below in acquitting the Non-applicants No. 1 and 2 for the offence punishable under Section 420 of the IPC are based upon proper appreciation of evidence and law, which cannot be found faulty or suffers from illegality warranting interference by this Court.

29. For the offence punishable under Sections 467 and 468 of the IPC, the prosecution has to prove that the Non-applicants No. 1 and 2 have forged any document with intention to cheat the society and the prosecution is able to prove the same. The Hon’ble Supreme Court in case of **Md.Ibrahim & Ors vs State Of Bihar & Anr {2009 (8) SCC 751}** has held as under :-

> 16. There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bonafide believes that the property actually belongs to

him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of `false documents', it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.

17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither section 467 nor section 471 of the Code are attracted.

30. From the evidence brought on record it is quite vivid that the prosecution is unable to prove beyond reasonable doubt that the transaction has been undertaken on the basis of forged layout, thus both the Courts below have rightly acquitted Non-applicants No. 1 and 2 of the charges of Sections 467 and 468 of the IPC.

31. The Hon’ble Supreme Court in case of **Mahabir and Others vs. State of Haryana {2025 INSC 120}** has examined the revisional power of the High Court under Section 397/401 Cr.P.C. particularly in cases of acquittal and held as under :-

39. This Court in Bindeshwari Prasad Singh v. State of Bihar (now Jharkhand) & Anr. reported in (2002) 6 SCC 650, laid down that there is a limit on the powers of the High Court as a Revisional Court, prohibiting it from converting a finding of acquittal into one of conviction. Para 12 reads thus: -

“12. We have carefully considered the material on record and we are satisfied that the High Court was not justified in reappreciating the evidence on record and coming to a

> different conclusion in a revision preferred by the informant under Section 401 of the Code of Criminal Procedure. Sub-section (3) of Section 401 in terms provides that nothing in Section 401 shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction. The aforesaid sub-section, which places a limitation on the powers of the revisional court, prohibiting it from converting a finding of acquittal into one of conviction, is itself indicative of the nature and extent of the revisional power conferred by Section 401 of the Code of Criminal Procedure. If the High Court could not convert a finding of acquittal into one of conviction directly, it could not do so indirectly by the method of ordering a retrial. It is well settled by a catena of decisions of this Court that the High Court will ordinarily not interfere in revision with an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a manifest illegality or the prevention of gross miscarriage of justice. The High Court will not be justified in interfering with an order of acquittal merely because the trial court has taken a wrong view of the law or has erred in appreciation of evidence. It is neither possible nor advisable to make an exhaustive list of circumstances in which exercise of revisional jurisdiction may be justified, but decisions of this Court have laid down the parameters of exercise of revisional jurisdiction by the High Court under Section 401 of the Code of Criminal Procedure in an appeal against acquittal by a private party.

40. This Court in Joseph Stephen & Ors. v. Santhanasamy & Ors. reported in (2022) 13 SCC 115, laid down that on a plain reading of sub-section (3) of Section 401 CrPC, it has to be held that sub-section (3) of Section 401 CrPC prohibits/bars the High Court to convert a finding of acquittal into one of conviction. Para 10 reads thus:-

> “10. Applying the law laid down by this Court in the aforesaid decisions and on a plain reading of sub-section (3) of Section 401CrPC, it has to be held that sub-section (3) of Section 401CrPC prohibits/bars the High Court to convert a finding of acquittal into one of conviction. Though and as observed hereinabove, the High Court has revisional power to examine whether there is manifest error of law or procedure, etc. however, after giving its own findings on the findings recorded by the court acquitting the accused and after setting aside the order of acquittal, the High Court has to remit the matter to the trial court and/or the first appellate court, as the case may be.”

42. This Court in Ganesha v. Sharanappa & Anr. reported in (2014) 1 SCC 87, in para 11, clarifies that :

> "… Interference with the order of acquittal is called for only in exceptional cases – where there is manifest error of law of procedure resulting into miscarriage of justice, and, where the acquittal has been caused by shutting out evidence which otherwise ought to have been considered or where material evidence which clinches the issue has been overlooked. In such exceptional cases, the High Court can set aside an order of acquittal, but it cannot covert it into one of conviction. The only course left to the High Court in such exception cases, is to order retrial".

32. Considering the well settled position of law that this Court while exercising revisional jurisdiction can not ordinarily undertake a fresh appraisal of the entire evidence and can interfere with concurrent findings of acquittal only where the findings are manifestly perverse, based on a patent misreading of the evidence, vitiated by a material illegality, or otherwise result in a miscarriage of justice. In the present case no perversity or illegality has been committed by both the courts below in acquitting the Non-applicants No. 1 and 2 which warrant interference by this Court under revisional jurisdiction to upset the concurrent findings of acquittal.

33. Consequently, the judgment dated 04.01.2025 passed by the learned Judicial Magistrate First Class, Durg, in Criminal Case No. 3324 of 2020, and judgment dated 08.04.2025 passed by the learned Seventh Additional Sessions Judge, Durg, in Criminal Appeal No. 42 of 2025 are hereby affirmed.

Claim for Compensation by Non-Applicants No. 1 and 2

23. The next question for consideration is whether non-applicants No. 1 and 2 are entitled to compensation of ₹2,00,00,000/- on account of

the alleged prolong prosecution, mental agony, harassment, suffering and humiliation said to have been endured by them.

24. The fact that the accused persons have ultimately been acquitted does not, by itself, establish that the Non-applicants are entitled for compensation. The judgment relied upon by learned Senior Advocate in *S. Nambi Narayanan* (supra) is distinguishable on the facts as in that case closure report has already been submitted by the Central Bureu of Investigation, despite this the State Police continued with the investigation, whereas in the present facts of the case, on the basis of the FIR, proper investigation has been carried out and both the Courts below have acquitted them granting benefit of doubt. Therefore, the prayer for grant of compensation to Non-applicants No. 1 and 2 deserves to be rejected and accordingly it is rejected.

25. Consequently, the criminal revision, being devoid of merit, is **dismissed**.

Sd/-
(Narendra Kumar Vyas)
Judge

Sd/-
(Sudhir Kumar)
Judge

KISHORE KUMAR DESHMUKH
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Date: 2026.11.04 18:23:10 +0530

Deshmukh