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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Misc. Petition No.673 of 2009

PETITIONER/:
(Accused)

Gurubachan Singh, S/o Mela Singh
Punjabi, aged about 70 years,
Occupation Shopkeeper and
Agriculture, R/o Village Nawagarh, Post,
Tahsil and P.S. Nawagarh, Distt. Durg
(Chhattisgarh)

Versus

RESPONDENTS/:
(Complainant)

1. Bulthu, S/o Jairam Yadav, aged about
51 years, Occupation Labour, R/o
Village Nawagarh (Sukulpara Ward
No.2), P.S. & Tahsil Nawagarh, Distt.
Durg (Chhattisgarh)
2. State of Chhattisgarh through the
Station House Officer, P.S. Nawagarh,
Distt. Durg (CG)

{Criminal Miscellaneous Petition under Section 482, Code of Criminal
Procedure, 1973}

Present:

Mr. Sanjay Shyam Agrawal, counsel for the petitioner.

Mr. P.P. Sahu, counsel for respondent No.1.


Miss Sunita Jain, Panel Lawyer for the State/respondent No.2.

Single Bench: Hon'ble Mr. T.P. Sharma, J

ORAL ORDER

(31-1-2011)

1. By this petition under Section 482 of the CrPC, the petitioner has prayed
for quashment of criminal proceeding pending against him before the
Court of Additional Chief Judicial Magistrate, Bemetara in Criminal Case
No.221/2009 and the order dated 29-10-2009 passed by the Additional
Sessions Judge, Bemetara in Criminal Revision No.18/2009.
2. Brief facts necessary for the disposal of this petition are that as per copy
of the complaint, copy of the sale deed and other documents, the
petitioner has executed sale deed in favour of father of respondent No.1
on 25-6-85 and sold the land, thereafter, one Tijia Bai, who had earlier
filed civil suit against father of the petitioner, has succeeded in the civil
suit and finally possession of the suit property has been taken by Tijia
Bai in execution from respondent No.1. Respondent No.1 along with his
relatives contacted the petitioner for providing other lands or money as



agreed in the sale deed, but finally, the petitioner refused. Thereafter, complaint for the offence punishable under Section 420 of the IPC has been filed against the petitioner, same was sent for examination under Section 173 of the CrPC to the police and the police has submitted report that no offence has been committed by the petitioner. Thereafter, by examining the complainant and his witnesses under Chapter XV of the CrPC, the Court has registered criminal complaint case against the petitioner.

3. I have heard learned counsel for the parties, perused the order impugned and copies of other documents.
4. Learned counsel for the petitioner vehemently argued that as per the allegation made in the complaint and sale deed, this is a dispute of civil nature and the petitioner has not committed any offence punishable under Section 420 of the IPC. In these circumstances, continuance of criminal proceeding against the petitioner would amount to abuse of process of the Court. Learned counsel further argued that as per the allegations made in paras 3 & 6 of the complaint, the complainant/ respondent No.1 may file civil suit for recovery of money.
5. On the other hand, learned counsel for respondent No.1 and learned State counsel opposed the petition and submitted that at the time of execution of sale deed in favour of father of respondent No.1, the petitioner was having full knowledge that the property is not recorded in his name, inter alia, the propriety is recorded in the name of his father and the petitioner was also having knowledge that Tijia Bai has filed civil suit against his father relating to same property, but the petitioner has concealed the aforesaid facts at the time of execution of sale deed. This shows intention of the petitioner since inception. Finally, respondent No.1 has been deprived of the property.
6. This is petition under Section 482 of the CrPC. Scope of interference in terms of Section 482 of the CrPC is limited. Power under Section 482 of the CrPC is exceptional in nature and should be used sparingly.
7. In some cases, dispute may be of civil nature and also of criminal offence. In the present case, as per documents and allegation, the petitioner was not the recorded owner of the property at the time of execution of sale deed and father of the petitioner was the recorded owner of the property. Civil suit relating to same property was pending

against father of the petitioner at the instance of Tijia Bai, but the petitioner has not informed the same to father of respondent No.1 and has concealed the aforesaid facts, and finally respondent No.1 has been deprived of the right over the property. Even after recovery of possession from respondent No.1 in favour of Tijia Bai, the petitioner has not paid the amount of sale or compensation.

8. Definitely, this is a case of civil nature and also commission of offence. By registering criminal complaint against the petitioner and affirming the said order both the Courts below have not committed any illegality requiring any interference in terms of Section 482 of the CrPC.
9. The petition is, therefore, liable to be dismissed and it is hereby dismissed.
10. Consequently, I.A.Nos.1 & 2 stand disposed of.

Soma

Sd/-
T. P. Sharma
Judge