



2025:CGHC:31939-DB



2025:CGHC:31938-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 551 of 2024**

Pratik Kumar Jaisawal S/o Rajratan Jaisawal Aged About 34 Years
Occupation - Service Presently Posted As Tahsildar, Tahsil Sonhat, District -
Koriya, Chhattisgarh. (Wrongly Mentioned As Tahsildar Pratik Jaiswal
Presently Posted Bhatgaon, District - Surajpur, Chhattisgarh In The Order
Impugned)

--- Petitioner(s)**versus**

1 - State of Chhattisgarh Through Station House Officer, Police Station -
Bhatgaon, District - Surajpur, Chhattisgarh.

2 - Manju Singh W/o Late G.S. Mann Aged About 50 Years Caste - Sikh,
Occupation - Service, R/o Q.No. 1-C-98, Vishrampur, Police Station
Vishrampur, District - Surajpur, Chhattisgarh.

--- Respondent(s)

For Petitioner	:	Mr. Malay Shrivastava, Advocate.
For Respondent No. 1	:	Mr. Shashank Thakur, Deputy Advocate General
For Respondent No. 2	:	Mr. Shakti Raj Sinha, Advocate.

CRMP No. 636 of 2024

Rampyari S/o Nanka Aged About 81 Years Caste- Lohar, R/o Village Barpara,
P.S. Bhatagaon, District Surajpur Chhattisgarh.

---Petitioner(s)

**Versus**

1 - State Of Chhattisgarh Though Station House Officer Police Station
Bhatagaon, District : Surajpur, Chhattisgarh

2 - Manju Singh W/o Late G.S. Maan Aged About 50 Years Caste Sikh,
Occupation Asi Police Department R/o Quarter No. 1- C-98 Vishrampur P.S.
Vishrampur District Surajpur Chhattisgarh.

--- Respondent(s)

For Petitioner	:	Mr. Malay Shrivastava, Advocate.
For Respondent No. 1	:	Mr. Shashank Thakur, Deputy Advocate General
For Respondent No. 2	:	Mr. Shakti Raj Sinha, Advocate.

Hon'ble Mr. Ramesh Sinha, Chief Justice

Hon'ble Mr. Bibhu Datta Guru, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

10/07/2025

1. By these petitions under Section 482 of the Criminal Procedure Code, 1973 (for short, the Cr.P.C.), the petitioner, in Cr.M.P. No.551/2024, seeks for the following relief(s):

"It is, therefore prayed that this Hon'ble Court may kindly be pleased to allow the instant petition and quash the Order dated 16.01.2024 passed in un-numbered Criminal Case by the Judicial Magistrate First Class, Surajpur, District Surajpur (C.G.) and the FIR bearing Crime No. 0038 of 2024 registered at Police Station, Bhatgaon, District Surajpur (C.G.) for commission of offence punishable under Section 420, 467, 468, 471 and 34 of the IPC, 1860, in the interest of justice."

The petitioner, in Cr.M.P. No. 636/2024, seeks for the following relief(s):

"It is therefore prayed that this honourable court may kindly be pleased to allow this petition and quash the FIR



number 38/2024 registered at police station, Bhatgaon district Surajpur, Chhattisgarh for the offences under section 420, 467, 468, 471 and 34 of Indian penal code, in the larger interest of justice.”

2. The facts, in brief, as projected by the petitioner, in Cr.M.P. No. 551/2024, is that the petitioner-Pratik Kumar Jaiswal is a Government Servant, presently discharging the duties of the post of Tahsildar, Tahsil Sonhat, District Koriya. On 06.05.2023, the respondent No.2 filed an application under Section 156(3) of the Cr.P.C. alleging that, the respondent no.2 is a holding the post of Assistant Sub Inspector, Police Station Ramanujganj, District Surajpur and the native place of the respondent no.2 is Bhatgaon. One Kishore Yadav, who is known person of the respondent No.2 informed her about a land situated in Village Dumariya, Tahsil Bhiyathan and induced her for purchasing the land and on the basis of the offer made by Kishore Yadav, the respondent no.2 agreed to purchase the lands. As per the complaint thereafter all the documents with respect to sale was prepared by Kishore Yadav and after completion of all the papers, the respondent No. 2 met the seller Rampyari and agreed to purchase 3.30 hectare of lands bearing Khasra No. 238 situated at Village Dumariya, Tahsil Bhiyathan, District Surajpur for a consideration of Rs. 16,00,000/- and executed two registered sale deeds on 23.02.2021. After execution of the sale deeds, the mutation proceedings were also done by Kishore Yadav and after lapse of some time, the sale deeds and mutation orders were given to the respondent no.2. After receiving the registered sale deed and the mutation orders, the respondent No.2 in the month of February, 2022 applied for demarcation of the land and in the demarcation proceedings, the respondent No.2 came to know that,



the lands purchased by the respondent No.2 are actually government lands received by Rampyari on lease and the same cannot be sold or purchased without obtaining leave from the Collector. Upon coming to know about the fraud played, the respondent No. 2 on 11.06.2022 submitted a complaint before the Station House Officer, Police Station Bhatgaon and when no action was taken, a complaint was submitted to Superintendent of Police on 04.07.2022 and thereafter the application under Section 156(3) was filed.

3. Upon receiving the application under Section 156(3), the learned JMFC Surajpur, called for an inquiry report from the SHO, Bhatgaon, who in furtherance of inquiry recorded the statements of the complainant, Patwari, the petitioner and other concerned persons and submitted a report before the learned JMFC on 02.12.2023 by recording a specific finding that the Patwari has while issuing the Partivedan, by mistake entered the old Khasra number of the land as 209 and thereby due to a clerical mistake, the lands purchased by the respondent No. 2 were shown as Bhumivwami lands. Upon receiving the said enquiry report, the learned JMFC, Surajpur, District Surajpur passed the impugned order dated 16.01.2024 and directed the police for registration of the FIR against the petitioner and some other persons.
4. Mr. Malay Shrivastava, learned counsel for the petitioner submits that against the said order of the learned JMFC, the petitioner-Pratik Kumar Jaiswal preferred a revision petition before the learned Sessions Judge, Surajpur, however as the learned Sessions Judge Surajpur had no jurisdiction to entertain the revision against the



impugned order and the FIR, therefore the petitioner withdrew the same on 23.02.2024.

5. Mr. Shrivastava submits that in the entire series of events the petitioner has only approved the Prativedan sent to the petitioner from the Halka Patwari with respect to the records of the land in dispute and the said act was done by the petitioner in its official capacity, that the Revenue Officers while discharging the duties and passing judicial orders are acting as a Court, and thus are protected under the provisions of the Judges (Protection) Act, 1985, yet the Police on 24.02.2024 registered the FIR against the petitioner for commission of offence punishable under Section 420, 467, 468, 471 and 34 of the IPC, 1860. As per Section 3 of the said Act, no Court shall entertain or continue any civil or criminal proceeding against any person for the act in discharge of his official or judicial capacity or judicial duty or function. Moreover, the entire proceedings has been followed in gross violations of the principles laid down by the Hon ble Apes Court in the matter of **Priyanka Shrivastava vs State of UP**, reported in 2015 (6) SCC 287 and thus the impugned order and the FIR is against the settled principles of law and thus not sustainable.
6. Cr.M.P. No. 636/2024 also arises of the same FIR. The allegation against the petitioner-Rampyari is that he has sold the land in question fraudulently and the said land was a government land which was given on lease to the petitioner's forefather long back and could not have been sold to any other person without the permission of the Collector.



7. Mr. Shakti Raj Sinha, learned counsel for the petitioner-Rampyari submits that the Patta of land bearing Kasara number 238 was granted in favour of the petitioner and the petitioner was having *Bhumiswami* right over the said land since long back and therefore was having full authority to execute sale deed of his land. The complainant after payment of the consideration amount got the sale deed executed by the petitioner and thereafter the name of the complainant has also been mutated in the revenue records which goes to show that there is no element of cheating in the present case. Neither any wrongful gain nor wrongful loss has been caused to any of the parties. The petitioner sold his land because of need of money to the complainant for which he was having full authority to do so. But the complainant who is Assistant Sub Inspector in the Police Department, has lodged a false report against the petitioner for the reason that before entering into the sale and purchase of the said land, the complainant had not intimated the Department nor she had taken any permission to purchase any immovable property which is necessary in case of the government servant. When the complainant was told that she will be in trouble, with an ulterior motive, the complainant lodged the FIR to get rid of the that would follow departmentally because of non-intimation and not taking permission from the Department before purchasing the land of the petitioner which is necessary in case of the government servant. The allegation in the FIR is that in the documents attached to the sale deed, the Kasara number 238 and old Kasara number 209 has been mentioned whereas the old Kasara number of Kasara number 238 is 1/7. The renumbering list (Annexure P/4) of the Kasara numbers of Patwari Halka number 29, Revenue Circle Bhatgaon, village Dumariya goes



to show that in front of Kasara number 238, hall number 209 is mentioned and Sabik number 1/7 is mentioned. Thus it shows that there is no fault on the part of the petitioner nor any cheating or fraud or any forged document has been prepared for execution of sale deed and nothing wrong has been done which attract any penal provision of law thus, no offence, as mentioned in the FIR is made out.

8. On the other hand, Mr. Shashank Thakur, learned Deputy Advocate General submits that an application was filed under Section 156(3) Cr.P.C by the complainant / respondent No. 2 Manju Singh before the learned Judicial Magistrate Surajpur against Kishore Yadav, Rampyari, Santosh Singh (Halka Patwari), Prateek Jaiswal (Tahsildar) Bhatgaon, Sonam Yadav & Kafil Ahmad (Dy. Registrar), stating that one Kishore Yadav came in contact with her and told the complainant that a good land in cheaper rate is available belonging to the present petitioner and the petitioner wants to sell his land. The said Kishore Yadav introduced the petitioner to her and also helped in execution of registered sale deed between the complainant and the petitioner for sale and purchase of the land bearing Khasra No. 328, Rakba 1.45 hectare of which total three sale deeds were executed, one in favour of the complainant, the other in favour of the complainant and her mother jointly and the last one in the name of wife of the accused Kishore Yadav. After execution of the sale deed, the names of the respective purchasers were also recorded in the revenue record in mutation proceedings. After mutation, she filed an application for demarcation of land where at the time of demarcation the revenue officers told the complainant that the land which she has purchased from the petitioner is a government land which is given on



lease to the petitioner's forefathers long back. On the basis of the aforesaid application, the learned Magistrate directed the concerned Police Station to Register F.I.R. Pursuant to the direction passed by the learned Magistrate, the FIR vide Crime No. 38/2024 has been registered by Police Station - Bhatgaon, District - Surajpur for the offences punishable under Sections 420, 467, 468, 471, 34 of I.P.C against Kishore Yadav, Rampyari {petitioner in Cr.M.P. No. 636/2024}, Santosh Singh, the then Halka Patwari, Prateek Kumar Jaiswal the then Tahsildar {petitioner in Cr.M.P. No. 551/2024}. During the course of investigation, the statements of witnesses have been recorded who have supported the allegations leveled in the FIR. During the investigation the entire documents in respect of the questioned land.

9. It is further submitted that the documentary evidence collected during the investigation also supports the allegation made by the complainant against the petitioner in the FIR. The investigation revealed clear and unambiguous evidence disclosing playing fraud and cheating and as such, these petitions deserve to be dismissed. Mr. Thakur further submits that the law regarding the scope of exercising power under Section 482 of Cr.P.C. is well settled that the inherent power of the High Court under Section 482 of the CrPC, to interfere with criminal proceedings is wide and such power has to be exercised with circumspection.
10. We have heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto.



11. In ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and others*** {2021 SCC OnLine SC 315}, the Apex Court has observed that the power of quashing should be exercised sparingly with circumspection in the rarest of rare cases. While examining an FIR/complaint, quashing of which is sought, the Court cannot inquire about the reliability, genuineness, or otherwise of the allegations made in the FIR/complaint. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the Court to be cautious. The Apex Court has emphasized that though the Court has the power to quash the FIR in suitable cases, the Court, when it exercises power under Section 482 Cr.P.C., only has to consider whether or not the allegations of FIR disclose the commission of a cognizable offence and is not required to consider the case on merits
12. From perusal of the FIR and the other materials placed on record, it transpires that the petitioner-Patik Kumar Jaisawal discharging his duties as Tahsildar and has approved the report prepared by the Patwari of the concerned Halka where the land in question was situated. Though the act was done in official capacity, however, if there was any discrepancy with regard to the status of the land whether it was a government land or the land granted to the forefathers of the petitioner-Rampyari on lease, it was the duty to verify as to whether the report submitted by the Patwari was based on records available with the Department. Further, the petitioner-Rampyari was also aware that the land which he intended to sell, was a land granted on lease to his forefathers and as such, he had no authority to sell the same without the permission of the Collector. Prima facie, there appears to be some element of cheating involved



in the transaction of sale of land between the petitioners and the complainant.

13. A learned Single Judge of this Court, vide order dated 11.03.2024 {Cr.M.P. No. 551/2024} and 19.03.2024 {Cr.M.P. No. 636/2024} had directed that no coercive steps shall be taken against the petitioners in respect of the FIR bearing No. 0038/2024, registered at Police Station, Bhatgaon, District Surajpur. It appears that since then, the investigation in the matter could not be concluded. The issues involved in these petitions are matter of investigation and at this stage, prima facie, it cannot be said that no cognizable offence is made out against the petitioners herein.
14. In the matter of ***State of Haryana & Others v Bhajanlal & Others***, reported in AIR 1992 SC 604, the Hon'ble Apex Court has illustratively given certain guidelines wherein, the extra ordinary jurisdiction under Article 226 of the Constitution of India or under Section 482 of the Cr.P.C. should be exercised, but the petitioner has utterly failed to bring home his case within any of the given guidelines. The trial has already commenced where the petitioner may put forth his version and lead evidence in support of his case. As such, this Court is of the view that these are not the fit cases where this Court should exercise its powers under Section 482 of the Cr.P.C. and quash the order dated 16.01.2024 passed in un-numbered Criminal Case by the Judicial Magistrate First Class, Surajpur, District Surajpur as also the FIR bearing Crime No. 0038 of 2024 registered at Police Station, Bhatgaon, District Surajpur for commission of offence punishable under Section 420, 467, 468, 471 and 34 of the IPC.



- 15.** As such, this Court is of the view that the police should proceed with the investigation and conclude the investigation within a period of six weeks from today and submits its final report under Section 173(2) of the Cr.P.C. {*Section 193(3) of the Bhartiya Nagarik Suraksha Sanhita, 2023*} without being influenced by any of the observations made herein, and till then, the interim protection granted to the petitioners earlier by this Court shall continue.
- 16.** With the aforesaid observation and direction, both these petitions stand **disposed of**.

Sd/-
(Bibhu Datta Guru)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE