

(2024) 05 CHH CK 0010

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition No. 258 Of 2020

Murit Ram Sahu

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 10-05-2024

Acts Referred:

Constitution of India, 1950 — Article 226

Indian Penal Code, 1860 — Section 34, 420, 467, 468, 471

Code Of Criminal Procedure, 1973 — Section 156(3), 200, 482

Citation : (2024) 05 CHH CK 0010

Hon'ble Judges : Ramesh Sinha, CJ; Rajani Dubey, J

Bench : Division Bench

Advocate : Aditi Singhvi, Ashok Swarnakar, Vinay Pandey, Ashutosh Shukla, Sudhir Bajpai

Final Decision : Allowed

Judgement

1. Since the facts and issues involved in both the petitions are similar, they are being considered and decided by this common judgment.

2. Challenge in these petitions is to the order dated 12.06.2018 passed by the learned Judicial Magistrate, First Class, Katghora, District Korba, by which it has directed the Police to register an FIR against the petitioners. The petitioners also challenge the consequent registration of the FIR bearing Crime No. 136/2018 at Police Station, Dipka, District Korba, for the offences under Sections 420, 467, 468, 471 and 34 of the Indian Penal Code.

3. The facts, as projected by the petitioners, are that the respondent No. 2 filed a complaint under Section 200 of the Code of Criminal Procedure, 1973 before the Judicial Magistrate First Class, Katghora on 10.01.2018 against the petitioners alleging that the petitioner-Paushik Ram Sahu by portraying himself as the husband of the private respondent, has obtained a job in the SECL in lieu of acquisition of land bearing Khasra No. 103/15, Area 0.25 Acre, situated at village- Bijhra, Tehsil Katghora, District- Korba which is owned by the private

respondent. The petitioner-Murit Ram Sahu is the alleged husband of the private respondent who is a attesting witness in the sale deed dated 10.02.1981, by which the private respondent obtained the land. The petitioner-Paushik Ram Sahu is the brother-in-law of the petitioner-Murit Ram Sahu. The said land was purchased by the father of the private respondent from one Thakur Singh through a registered Sale Deed date 10.02.1981 and after mutation of the land records the private respondent's name was entered into the land records. It has further been alleged by the complainant that the land was acquired by the SECL in 1989 with a provision that the owner of the land or a family member would be provided with the job in lieu of acquisition. The complainant made multiple representations to the SECL and it was informed to her on 09.08.2017 that the aforesaid land belonged to one Geeta Bai daughter of Sahdev and lieu of acquisition of said land, her husband i.e. petitioner-Paushik Ram Sahu was given a job with the SECL. It is the allegation of the complainant that the petitioner-Paushik Ram Sahu has forged the documents to portray the complainant Geeta Bai as his wife and obtained employment at SECL in October, 1989. It has been alleged that Murit Ram Sahu is the husband of the complainant Geeta Bai and they got married in the year 1972-73 and have 2 sons out of the wedlock. It has further been contended by the complainant that the petitioner-Murit Ram Sahu forged the documents to portray complainant as wife of Paushik Ram Sahu who is his brother in law and helped Paushik Ram Sahu to obtain a job at SECL. The petitioners along with other co accused namely Bhuwan Lal Sahu have forged the documents and obtained the job at SECL by forging the signature of complainant. The said complaint was registered as criminal case No. unregistered.

4. The learned Judicial Magistrate First Class, Katghora, District Korba called for a preliminary report from the police pursuant to which a report dated 09.04.2018 was submitted by the police stating that the name of the husband of the complainant is Murti Singh and the complainant has falsely stated the name of the petitioner-Murit Ram Sahu as her husband. The complaint filed by the complainant is false and has merely been ile to harass the accused persons. Thereafter, vide order dated 12.06.2018 while deciding the application under Section 156(3) Code of Criminal Procedure filed by the complainant, the learned Magistrate held that the perusal of the documents and the complaint filed by the complainant discloses a cognizable offence and hence, directed the police authorities to register the FIR against the present petitioners.

5. In compliance of the aforementioned order passed by the learned JMFC, Katghora, the police registered an FIR on 16.07.2018 against the petitioners-Murit Ram Sahu, Paushik Ram Sahu and Bhuwan Lal Sahu under Sections 420, 467, 468, 471 and 34 of Indian Penal Code, 1860 which is pending investigation.

6. Mr. Ashok Kumar Swarnakar and Ms. Aditi Singhvi, learned counsel for the respective petitioners submit that the complainant/respondent No. 2 has placed before the Court a false identity and false personal details. The complainant's name is Geeta Bai daughter of Sahdeo Singh, W/o- Murti Singh, Caste- Rajput, R/

o- Rani Road, Purani Basti, Korba. However, the complainant has very conveniently portrayed that her name is Geeta Bai, Daughter of Sahdeo Singh, wife of Murit Ram Sahu, Caste Tanwar, R/o-Village Binjhra, Korba and thereby impersonating some other person to hide her identity and enjoy the fruits of the land which never belonged to her. The complainant has relied upon a sale deed dated 10.02.1981 executed between one Thakur Singh and one Geeta Bai D/o. Sahdeo Singh caste Tanwar. The petitioner-Paushik Ram Sahu is the husband of Geeta Bai, D/o-Sahdeo Singh, R/o- Bhinjhra, P.S- Dipka, Korba to whom the employment was granted by the respondent SECL in lieu of the acquisition of the aforesaid land as he was the husband of the owner of the land so acquired.

7. Ms. Singhvi further submits that the complainant had earlier filed a complaint against the Murit Ram Sahu and his actual wife Lata Bai Sahu under Section 156(3) Cr.P.C. under Sections 419, 420, 467, 468, 471 and 34 of Indian Penal Code, 1860 praying that the FIR be registered against him and his wife Lata Bai for forging the government records and changing the details of the complainant and her family. The said complaint was rejected on the ground that the surname of the complainant varies and is different in different documents. The name of the complainant's husband also varies from document to document. The records of the complainant's children also differ from document to document wherein at certain places their father's name is mentioned as "Murit Ram" and at certain places it is mentioned as "Murti Singh". On the ground that the complainant could not prove her relationship with the petitioner-Murit Ram Sahu, the said complaint was dismissed vide order dated 16.08.2016. A bare perusal of the documents would show that the complainant has stated her age as 55 years in affidavit before JMFC, Korba which brings out her birth year to be 1963. The sale deed which is alleged to be forged and executed in 1981 shows the age of the complainant to be 22 years. It is submitted that considering the fact that the complainant was born around 1963, it is highly improbable that the complainant's age at the time of the execution of sale deed was 22 years. Keeping in view her age in affidavit, she would have been around 18 years at the time of execution of sale deed, which points out towards the improbable and false statement made by the complainant.

8. Ms. Singhvi further submits that the documents submitted by the complainant along with the complainant before JMFC, Korba clearly shows that the name of the husband of the complainant is "Murti Singh" and not "Murit Ram Sahu". The complainant has used the similarity in her name, her father's name to portray that she is the person who had executed the sale deed in 1989. The complainant has further used the similarity in her husband's name and petitioner-Murit Ram Sahu's name to bring a false and fabricated story. In fact the caste of the complainant as claimed by her and in the documents is "Rajput" and that of the Geeta Bai who had executed the sale deed in 1989 is "Tanwar" which further points out the discrepancy in the story made up by the complainant. This is further authenticated by the report (Annexure P/6) submitted by the Tehsildar during the investigation of the instant matter.

9. The petitioners further obtained the documents of the complainant under the provisions of the Right to Information Act, 2005, which shows that the complainant herein has varied her surname according to her convenience. The copy of the Admission and Discharge Register, marksheets and ID card issued by the Directorate of Employment and Training, of the Son of the petitioner namely Rajnikant Singh shows his father's name to be Murit Singh. (Not Murit Ram Sahu). The documents of the complainant and her family show her father's name to be Sahdev Singh and her caste to be Rajput. Furthermore, the voter list of the area where the complainant resides shows the name of the husband of the complainant as Muritram Singh which is different from name as pleaded by the complainant in the cause title of the complaint i.e. Murit Ram Sahu.

10. Furthermore the executor of the sale deed, Thakur Ram, in his affidavit dated 17.07.2018 has stated that he had never executed any sale deed with the complainant but had executed the sale deed with one Geeta Bai D/o. Sahdev Singh, caste Tanwar who was the wife of petitioner-Paushik Ram Sahu. After the petitioners obtained the documents filed by the complainant in a Complaint case before the CJM, Korba it came to their knowledge that since the name of the petitioner and father of the petitioner and the name of the petitioner No. 02's wife and her father was same i.e Geeta Bai and Sahdeo, the complainant misused the same to harass the petitioners. The complainant, in order to mislead this Hon'ble Court and the respondent SECL, has shown her name as Geeta Bai W/o Murit Ram Sahu, Cast Teli which in fact does not match with the sale deed which reflects the caste of the purchaser as Tanwar.

11. Ms. Singhvi further submits that there is a huge delay in filing of the instant complaint. As alleged by the complainant the incident took place in the year 1989 and she has filed a complaint before the JMFC, Katghora only in the year 2018 which is almost 30 years from the date of incident. The complainant has not been able to explain the delay of 30 years when she is making allegations against her husband and brother. Another important aspect of the matter is that the complainant herein uses the signature in all her documents whereas the sale deed and the other original documents show that Geeta Bai, W/o Paushik Ram used her thumb print which itself creates a doubt on the veracity of the complainant and her version of story. The complainant has not approached this Hon'ble Court with the clean hands and has presented the case merely with an object to obtain financial benefits out of the job obtained and harass the petitioners and for that purpose the complainant has portrayed that the sale deed was signed by her and not the original executor i.e the wife of the petitioner-Paushik Ram Sahu.

12. Mr. Swarnakar, learned counsel appearing for the petitioner-Bhuwan Lal Sahu submits that the said petitioner has not even been named in the written complaint dated 21.10.2017 made to the Superintendent of Police, Korba. The only allegation against him is that he had identified the other petitioner-Paushik Ram Sahu.

13. Mr. Swanakar and Ms. Singhvi submits that in light of the aforesaid facts and circumstances, even if the allegations are taken at their face value and accepted in their entirety, do not constitute any offence as against the petitioner. The bare perusal of the prosecution story, at any point, does not even slightly indicate that any offence has been committed by the petitioner and the story in itself is contradictory. There is no evidence in the complaint that goes against the petitioners. In support of their contentions, they rely on the decisions rendered by the Supreme Court in *Chunduru Siva Ram Krishna v. Peddi Ravindra Babu* {(2009) 11 SCC 203} *Hira Lal v. State of U.P.* {(2009) 11 SCC 89}, *K. Ramakrishna ? . State of Bihar*, (2000) 8 SCC 547, *Vijaya Rao v. State of Rajasthan*, {(2005) 7 SCC 69}, *Neelu Chopra v. Bharti*, {(2009) 10 SCC 184}, *Thulia Kali vs The State of Tamil Nadu*, {AIR 1973 SC 501}, *Kishan Singh v. Gural Singh*, {(2010) 8 SCC 775}, *State of Telangana v. Habib Abdullah Jeelani*, (2017) 2 SCC 779, *State of Haryana v. Bhajan Lal* (1992 Supp (1) SCC 335.

14. Mr. Vinay Pandey, learned Deputy Advocate General appearing for the State/respondent No. 1 submits that a complaint was made by the respondent No. 2 Geeta Bai under Section 156(3) of the Cr.P.C. before the Judicial Magistrate First Class, Katghora, as aforesaid upon which the learned Magistrate, vide order dated 12.06.2018, directed the police to register an FIR against the petitioners. Hence, in compliance of the aforesaid order passed by learned Magistrate, the police registered an FIR in Crime No. 136/2018 for offence punishable under Sections 420,467,468,471,34 of IPC against the petitioners herein, on 16.07.2018. After registration of offence the investigation has been started by the answering respondent, which is still going on. During investigation the statement of the complainant Smt. Geeta Bai and other persons has been recorded and the documentary evidences pertaining to the offence have been collected, which clearly establishes commission of offence on the part of the accused persons. Mr. Pandey further submits that on account of interim order passed by this Court, the investigation could not be proceeded and the charge sheet could not be filed. It is not a case where any interference is warranted and the police would submit the charge sheet once the investigation is completed.

15. Mr. Ashutosh Shukla, learned counsel for the respondent No. 2/complainant submits that the learned Magistrate has rightly taken cognizance of the matter and directed the police to investigate the crime in question. The complainant is a tribal illiterate lady and if she has lodged the complaint after delay of 30 years, that would not mean that no offence was committed by the petitioners herein and as such, the order of the learned Magistrate directing the police to register the FIR is just and proper and warrants no interference.

16. The petitioner-Paushik Ram S/o Lalu Ram had, by forging the documents, portrayed himself that he is the husband of the complainant Smt Geeta Bai D/o Sahdev by way of cheating and managed to get the Job in SECL as the accused petitioners- Murit Ram Sahu and Bhuwan Lal Sahu had identified in the affidavit as witness that he is the husband of Smt Geeta Bai which is prima facie false and

after going through the facts and documents the, learned JMFC Katghora had directed the police to register an FIR and investigate the matter by way of order dated 12.06.2018. When the complainant asked the SECL authorities about the details of the Paushik Ram S/o Laluram Sahu under what grounds he managed to get the job/employment in SECL as the land belongs to her and Paushik Ram Sahu is neither a relative nor having any link with her, the SECL authorities gave an information under the provisions of the Act of 2005, which shows that forged documents have been used by the petitioner Paushik Ram Sahu for obtaining the employment in SECL against which the complaint case have been iled and case have been registered against the petitioners- Murit Ram Sahu, Paushik Ram Sahu, Bhuwan Lal Sahu Under Section 420,467,468,471,34 of IPC at Police Station Dipka District Korba. The investigation is still underway and the entire investigation process is going on and the petitions iled by the petitioners are premature and liable to be dismissed. In a petition iled by the petitioner under section 482 of Cr.P.C and while exercising the jurisdiction under Section 482 of the Cr.P.C., the Hon'ble High Court would not embark upon an enquiry or the Court does not function as a court of appeal or revision and it is for the trial Court to decide as to whether the charges levelled against the petitioners/accused are sustainable or not after conducting trial, so at this stage the petition under Section 482 Cr.P.C. is not maintainable and is liable to be dismissed

17. Mr. Sudhir Bajpai, learned counsel appearing for the respondent No. 3/SECL submits that in the complaint case, iled by the respondent No. 2, the learned Magistrate after taking cognizance, issued direction vide order dated 12.06.2012 to the Police for registration of FIR against the petitioners. The petitioners instead of appearing before the Magistrate and raised their grievances, preferred instant petition before the Hon'ble Court and no application was iled for discharging them before the Magistrate. The petitioners have iled instant petition directly before the Hon'ble Court against the order of Magistrate. It is submitted that the petitioners ought to have irst approached the learned trial court which had passed the impugned order against the petitioners and thereafter they ought to have moved an application for discharge under the relevant provision of Cr.P.C. and only after rejection of the said application, they could have come to this Court. A petition under Section 482 of Cr.P.C. would lie only when efficacious and alternative remedy is not available to the aggrieved persons. The power of the Court under Section 482 of Cr.P.C. cannot be utilized as a substitute for ordinary remedy. In the present case, the petitioners had a statutory remedy of assailing the order of the learned trial Court by way of iling a revision petition before the Session Court, but instead of doing so, the petitioners have taken the recourse to the proceedings under Section 482 of Cr.P.C. For this reason alone the instant petition is liable to be dismissed. From perusal of documents submitted at the time of obtaining, employment it reveals that the owner of land Geeta Bai has mentioned that her land bearing khasra No. 103/15, area 0.25 acres and also mentioned that she is the resident of village Binjhra. The nomination form was duly authenticated by the village Kotwar, Patel, Sarpanch

and Patwari by putting their signatures, further in the Nomination Form, the Nayab Tahsildar Katghora has certified the contents of Nomination Form and declared that the Geeta Bai is the resident of village Binjhra and the candidate Paushikram is husband of land owner Geeta Bai and thereby recommended for his employment. The respondent Company is not an authority to probe /decide into the matter of, who is the family member or dependent of land oustees and it has to rely on the certificate issued by competent revenue authorities of the State. The respondent-Company had no other alternative, except to consider the claim of employment in accordance with the rehabilitation policy. Therefore after due official process, the office of answering respondent has issued an appointment order dated 27.10.1989 in favour of Paushikram. In the year 2017, Geeta Bai made a complaint in the office of the respondent/Company against Paushikram son of Laluram and alleging that, they had obtained the employment in a fraudulent manner and submitted false and fabricated documents for getting the service of S.E.C.L. Thereafter the preliminary enquiry was conducted and after scrutiny of the service record, found substance in the complaint of Smt. Geeta Bai and accordingly the Paushikram was charge-sheeted, for the charges of obtaining employment as dependent of land oustee of Khasra No.103/15, of village Binjhra, on the basis of false nomination, affidavit and other fabricated documents, which amount to the misconduct under the provisions of Certified Standing Order of the S.E.C.L. The office of respondents has conducted a detailed departmental enquiry in accordance with the service rules and also giving sufficient opportunity of hearing to the Paushikram. Being aggrieved by the above, Paushikram Sahu has filed a petition bearing W.P(S) No. 2441/2020 before the Hon'ble Court and alleged that, a departmental enquiry has been commenced at the fag end of service and was being conducted on day to day basis when Covid-19 pandemic situation was prevailing and it was very difficult to attend the proceedings each and every days therefore, a breather was being sought for in conducting the departmental enquiry. The said petition was of by the Hon'ble Court at motion hearing fresh case stage, vide order dated 26.06.2020 observing that since a breather has been sought for in the Covid-19 pandemic situation as also taking into the age of the petitioner, the respondent authorities may consider the request of the petitioner sympathetically, so that he may get sufficient time to represent his case and the departmental enquiry and along with that the respondents shall decide the representation which was filed before the respondents within a period of 30 days from the date of receipt of the order.

18. Mr. Bajpai further submits that the order passed by the learned Magistrate is strictly in accordance with law and there is no illegality or infirmity in it warranting interference by this Hon'ble court. The learned Magistrate has looked into the facts and averments mentioned in the complaint and found that they were not vague with regard to commission of offence. They applied their mind to the facts and circumstances disclosed in the complaint and the documents attached thereto and thereafter direction was issued for registration of F.I.R. against the petitioners/accused persons, as the Court found that there were

suicient grounds for proceedings against the accused persons as required under Section 156(3) of Cr.P.C. The order passed by the learned Court below is quite legal and justiiied.

19. We have heard learned counsel for the parties, perused the pleadings and documents appended thereto.

20. From perusal of the materials available on record, it transpires that the alleged incident of forgery took place in the year 1989 and the complainant has iled a complaint before the JMFC, Katghora only in the year 2018 which is almost 30 years from the date of incident. The complainant has not been able to explain the delay of 30 years. Even if it is assumed that the complainant is an illiterate lady, it cannot be believed that she was unaware that some other person had got employment in lieu of acquisition of her land by the SECL and she could not come to know about the said fact for 30 long years. Even from the pleadings made by the petitioners, it transpires that the surname of the complainant is diferent in diferent documents, her husband's name is diferent in diferent documents and so is the case with respect to her son whose father's name difer in diferent documents. This Court, vide order dated 14.12.2018 and 29.01.2020, respectively, had directed that no coercive steps shall be taken against the petitioner pursuant to the Crime No. 136/2018 registered at Police Station Dipka, District Korba. As has been informed by the learned State counsel, the investigation is pending on account of the said interim order and as such, no useful purpose would be served if the investigation is directed to be carried on after lapse of such a long period. Even otherwise, the complainant herself has not been able to establish a case against the petitioners and the allegations made by her appears to be bald without any substance. The Supreme Court, in case of Bhajan Lal (supra), has observed that where the allegation made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the High Court may in exercise of its power under Article 226 or under Article 482 of the Cr.P.C. may interfere in proceedings relating to cognizable offence to prevent abuse of the process of any Court or otherwise to secure ends of justice.

21. In view of the above submission, this Court is of the view that no case whatsoever is made out against the petitioners and as such, the order dated 12.06.2018 passed by the learned Judicial Magistrate First Class, Katghora, District Korba in the complaint iled by the respondent No. 2/Complainant and the consequential registration of the FIR bearing Crime No. 136/2018 on 16.07.2018 at Police Station, Dipka, District Korba, for the offence punishable under Sections 420, 467, 468, 471 and 34 of the Indian Penal Code, are quashed.

22. Resultantly, both the petitions are allowed.