

**(2019) 09 CHH CK 0036**

**Chhattisgarh High Court**

**Case No:** CRR No. 414 Of 2019

Ratna Chandrakar

APPELLANT

Vs

Kamlesh Kumar And Ors

RESPONDENT

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**Date of Decision:** Sept. 4, 2019

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 397, 401
- Indian Penal Code, 1860 - Section 420, 467, 468, 506

**Hon'ble Judges:** Prashant Kumar Mishra, J; Gautam Chourdiya, J

**Bench:** Division Bench

**Advocate:** Mayank Chandrakar, Shikhar Bakhtiyar, Pawan Kesharwani

**Final Decision:** Dismissed

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### **Judgement**

Prashant Kumar Mishra, J

1. In this criminal revision under Section 397 read with Section 401 of Cr.P.C. the applicant/complainant would challenge the legality and validity of the impugned appellate judgment passed by the Sessions Judge, Balod dismissing the State's appeal against acquittal of the respondent from the charges under Section 420, 467, 468 and 506 Part II of IPC which in turn was rendered by the trial Magistrate in its judgment dated 29.09.2011.

2. Admittedly, the applicant and the accused entered into the agreements on 04.05.2003 and 04.03.2005 for sale of land for a sum of CRR No.414 of 2019 Rs.2,50,000/-. The dispute arose when after receiving the entire amount of Rs.2,50,000/- on different dates, the accused did not execute the sale-deed in favour of the complainant. The complainant would allege that the accused entered into the agreement to sale and received a sum of

Rs.2,50,000/- from the complainant despite knowing that he is not the owner of the subject land and has thus committed deceit and cheating.

3. While acquitting the accused, the trial Magistrate and while dismissing the State's appeal against acquittal, the Sessions Court has recorded a finding

that the complainant has admitted in her deposition that on the date of agreement she was aware of the fact that the accused is not the recorded

owner of the land and further that the land is opposite to her house as she has seen the accused being in possession of the land. The agreement would

also record these facts that the accused is not the recorded owner of the land. Since the complainant was aware of the position about ownership of

the land as recorded in the revenue record and yet she agreed to purchase the land by making payment of Rs.2,50,000/- to the accused. The Court

below has rightly held that the basic ingredients of deceit and cheating is missing.

4. No case for entertaining this revision application is made out, it fails and is hereby dismissed.