

Subhash Sharma Vs State Of Chhattisgarh

Court: Chhattisgarh High Court

Date of Decision: Sept. 30, 2019

Acts Referred: Code Of Criminal Procedure, 1973 " Section 439
Indian Penal Code, 1860 " Section 120B, 420, 467, 468, 471

Hon'ble Judges: Sharad Kumar Gupta, J

Bench: Single Bench

Advocate: Kishore Bhaduri, H.S. Ahluwalia, Y.C. Sharma

Final Decision: Allowed

Judgement

Sharad Kumar Gupta, J

1. This is second bail application under Section 439 of the Cr.P.C. Earlier first bail application was dismissed by the Registry in compliance of this

Court order dated 29.03.2019 on account of non-removal the default.

2. The applicant has been arrested in connection with Crime No.507/2018 registered in Police Station Civil Lines, Raipur (CG) for offence punishable

under Sections 120-B, 420, 467, 468, 471 of Indian Penal Code.

3. Prosecution story in brief is that Subhash Vin Trade Pvt. Ltd. is a registered Company. Applicant had told Power of Attorney holder Prakash

Kalash of complainant Harbansh Lal that said Company belongs to him. The Director of said Company was Ummed Singh. Now the Directors of said

company are Daman Kumar Sarthi and Shri Sagar. Complainant through said Power of Attorney holder executed a registered sale-deed on 25-09-

2013 in favour of said Company through Director Ummed Singh regarding some lands. Applicant on behalf of said Company gave him five post dated

cheques in lieu consideration, which were signed by Ummed Singh. The possession of disputed lands was not given to said Company, applicant and

Ummed Singh. Applicant had given to complainant only photocopy of sale-deed. When he obtained certified copy of said registered sale-deed on

18.07.2016 he surprised that in page No. 5 after the Sl. No.5 it was added that ""despite of post dated cheque the consent of buyer is compulsory

before drawing, if the cheques would bounce the title of the purchaser would remain continue and no legal proceeding would be initiated"". These lines

were not in existence at the time of registration of sale-deed. Applicant and Ummed Singh hatched conspiracy with the Record Keeper of the office

of the Registrar and manipulated in registered sale-deed. Document Writer Suresh Golchha gave statement that applicant and another person came to

him, he had prepared the draft of sale-deed in which the said two lines were not the part of said draft. Handwriting Expert Sunita Dhenge opined that

page No.5 of certified photocopy of registered sale-deed which was seized from Sub-Registrar Smt. Manjusha Mishra was altered with addition of

said two lines.

4. Counsel for applicant submitted that applicant is innocent and has been falsely implicated. The registered sale-deed was executed in favour of said

Company through Director Ummed Singh. At that time he was not the Director of that Company. Prior to execution of registered sale-deed he has

resigned from that Company. There is no material which indicate that he was involved in said manipulation, thus he may be released on bail.

5. On the other hand, the State Counsel opposed the bail application submitting that the applicant is involved in aforesaid offences which are serious in

nature. After registration of the said deed, he manipulated it by adding said two lines with the help of officials of the office of the Sub Registrar,

Raipur. Another similar type of criminal case has been registered against the applicant.

6. In said registered sale-deed the buyer is Subhash Vin Trade Pvt. Ltd. through Director Ummed Singh. It was not executed through applicant. As

per the investigation on 28.08.2013 before the date of registration of said sale deed, applicant had resigned from the Director of said Company. Xerox

copy which was seized from said Power of Attorney holder is not photocopy of registered sale-deed. Prima facie it appears that there is a civil

dispute. Looking to these circumstances and looking to the investigation regarding role of officials of office of the Sub-Registrar Raipur, this Court is

inclined to give the benefits of Section 439 of Cr.P.C. to the applicant. Consequently, the application is allowed and it is ordered that if applicant

furnishes two solvent sureties each for a sum of Rs. 50,000/- along with personal bond of Rs. 1,00,000/- to the satisfaction of the Court concerned

with condition that he will appear before the trial Court at 11.00 am as and when directed by the said court till trial and he would cooperate during trial,

he be released on bail.

7. CC as per rules.