

**MCRC.10252/2016**

Khuman Singh Rajput

V.

Superintendent of Police, Datia & anr.

**28/02/2017**

Shri Jitendra Kumar Sharma, Advocate with Shri Abhishek Parashar, counsel for the applicant.

Shri Girdhari Singh Chauhan, Public Prosecutor for the respondents/State.

This petition under Section 482 of CrPC has been filed for quashing the FIR in Crime No.296/2016 registered by Police Station Kotwali, District Datia for offences punishable under Sections 420,467,468,471 and 120-B of IPC.

The necessary facts for the disposal of the present application in short are that the complainant Ramsewak Bhargava alongwith his brother Ramswaroop Bhargava made a written report to the police alleging that they are the owners and in possession of their ancestral land bearing Survey No.930,933 area 0.81 hectare and Survey No.899,917,918,919,921,925,926 and 927 total 1.95 hectare out of which 0.9 hectare is situated in Mauja Palothar. On 08/05/2016, they were informed, by the Sarpanch of the village, that the mutation proceedings in respect of their land are pending before the Patwari, therefore, they contacted the Patwari and saw a sale deed in which the complainant and his brother were mentioned as seller. The said sale deed was alleged to have been executed in favor of one Umesh Tiwari and on the basis of the said sale deed, an application for mutation of the name of the purchaser was filed. The signatures of Arvind Pal and Uday Bhan Prajapati were there on the sale deed as witnesses. The complainant and his brother informed the Patwari that they have never sold their land and the sale

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deed is forged one. Certified copy of the sale deed was obtained and it was found that after affixing the photograph of another person and putting the forged thumb impression, a sale deed was executed in favor of Umesh Tiwari. A report was made to the senior officers and, accordingly, the FIR was registered.

It is submitted by the counsel for the applicant that he has nothing to do with the sale transaction which is alleged to have taken place. Even according to the prosecution case, he had merely drafted the sale deed. It is submitted that he is a Document Writer since last 27-28 years and his only role is to draft the documents as per instructions of the parties. It is not expected from him that he should verify the correctness of the documents drafted by him. On 23/02/2017, the applicant has filed the copy of the license which was granted to him as a Document Writer. The said license for document writing was issued by the Sub-Registrar/licensing authority, District Datia on 09/07/1990 and it was renewed from time to time and in accordance with the endorsement made on the license, it is clear that it was renewed on 07/04/2015 and was to remain in force till 31/03/2016. It is further submitted that thereafter the applicant has also been granted license under the Madhya Pradesh Stamp Rules, 1942. It is submitted that the said sale deed was executed on 03/03/2016. By referring to the sale deed, it was mentioned by the counsel for the applicant that it was specifically mentioned in the said sale deed that the document has been drafted by the applicant under the instructions of the purchaser and seller. Being a document

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writer, it was his duty to draft the documents under the instructions of the parties. Accordingly, it was submitted that the applicant had merely acted on the instructions of the seller and purchaser and it was not his duty to verify that the person who is executing the sale deed is real owner or not. It is further submitted that even if the entire allegations are accepted, then it would be clear that no offence is made out.

*Per contra*, it is submitted by the counsel for the State that the applicant had drafted the sale deed which was alleged to be a forged one. Whether the applicant was a part of conspiracy or not is a question of fact which is to be decided at the trial. It is further submitted that the allegations are sufficient for sending the applicant for trial.

Heard the learned counsel for the parties and perused the documents filed along with this petition.

The applicant has relied upon the license issued by the competent authority for document writing. The license was issued for the first time in the year 1990 and it was renewed upto March, 2016. The sale deed is alleged to have been executed on 03/03/2016 and, thus, it is clear that the applicant was having the license of document writing.

Under these circumstances, if the applicant, on the instructions of the seller and purchaser, had merely drafted the document which subsequently has been challenged as a forged document, that by itself, would not be sufficient to hold that the applicant is *prima facie* guilty of committing any of the offences mentioned above. The prosecution is under obligation to prove that apart from drafting the

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document, the applicant had also done anything to show that he hatched the conspiracy alongwith other co-accused persons for executing a forged document.

The counsel for the State fairly conceded that there is nothing on record to show that at any point of time, the applicant had hatched conspiracy alongwith co-accused persons for executing the forged document.

Thus, in a case where the person, in the capacity of a Document Writer, has drafted a document on the basis of the instructions given by the seller and purchaser, then without any evidence to show that the applicant was a part of a conspiracy with the other accused persons, it cannot be said that the applicant has committed any offence as alleged against him.

Accordingly, this petition succeeds and is hereby allowed.

The FIR in Crime No.296/2016, registered by Police Station Kotwali, District Datia, and all consequential criminal proceedings qua the applicant, are hereby quashed.

**(G.S.Ahluwalia)**  
**Judge**