



NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 424 of 2018**

**Reserved on : 10.12.2021**

**Delivered on : 15.02.2022**

Nand Kumar Verma, S/o Ghasiya Verma, Aged About 65 Years, R/o Pandri Puranbada, Near Mayur Club, Pandri, Raipur, P.S. Civil Line, Raipur (C.G.)

---- **Petitioner**

**Versus**

1. State of Chhattisgarh, through the Police Station City Kotwali, Baloda Bazar, District- Baloda Bazar- Bhatapara (C.G.)
2. Nandlal Verma, S/o Ghanshyam Verma, Aged About 62 Years, R/o Puran, Thana Palari, District- Balodabazar-Bhatapara (C.G.)

---- **Respondents**

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For Petitioner	:	Mr. Somnath Verma, Advocate.
For State/Respondent No. 1	:	Mr. Sameer Sharma, Dy. G.A.
For respondent No. 2	:	Ms. Deepali Pandey, Advocate.

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**Hon'ble Shri Justice Narendra Kumar Vyas**

**C.A.V. ORDER**

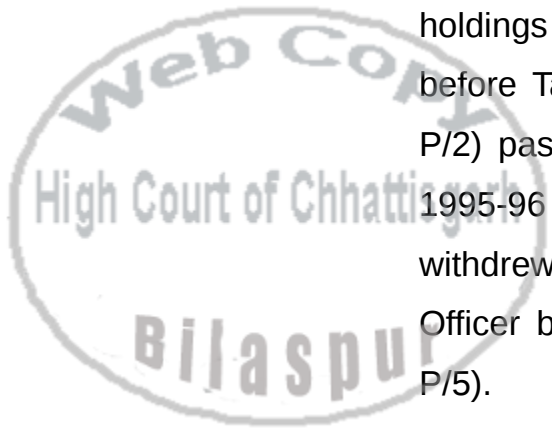
1. The petitioner has filed the instant petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing the FIR bearing Crime No. 124/2017 (Annexure P/1) registered against the petitioner on 30.03.2017 on the basis of complaint made by respondent No. 2 along with other complainants at Police Station- Baloda, District- Baloda-Bazar (C.G.) for committing offence punishable under Section 420 of I.P.C.
2. The brief facts, as projected by the petitioner, are that on 30.03.2017, Police Station- Baloda, District- Baloda-Bazar-Bhatapara registered offence bearing FIR No. 124/2017 on the basis of written report dated 28.06.2016 by respondent No. 2/Nandlal Verma, Kalindri, Kaushal, Santram Mantram & Gopal alleging that the petitioner in a revenue case for mutation of land



filed before Tahsildar had submitted fabricated false documents of Panchayat proceedings dated 03.04.2013 and got his name mutated in revenue records of the ancestral property on the basis of this fabricated document. After completion of preliminary enquiry, the Police have registered the FIR against the petitioner on 30.03.2017, which has been assailed by the petitioner in this petition.

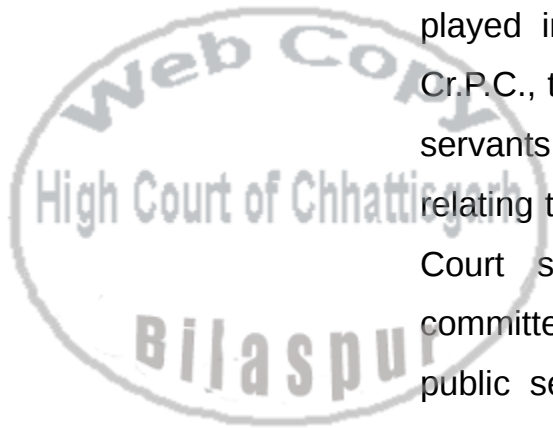
3. Learned counsel for the petitioner would submit that on 26.11.1997, the complainants executed settlement (Partition-deed) in absence of the petitioner. On 17.12.1997, the complainants again executed family settlement / partition-deed and made partition of ancestral property. The complainants along with the petitioner filed an application for partition of holdings under Section 178 of the Land Revenue Code, 1959 before Tahsildar, Baloda Bazar, who on 26.11.1996 (Annexure P/2) passed judicial order in Revenue Case No. 17-A/27 Year 1995-96 (Annexure P/4). The complainants and the petitioner withdrew the appeal filed by them before the Sub Divisional Officer by filing compromise petition on 07.01.1998 (Annexure P/5).

4. It has been further contended that on 03.04.2003, Gram Panchayat passed its resolution No. 3 regarding partition between the complainants and the petitioner. The said resolution of Gram Panchayat, Purena Khapri has been signed by Sarpanch and Secretary. The ex-Panch-Asharam and Shiv Kumar Sahu confirmed the truth of panchayat proceeding written before them who gave affidavit on 27.10.2014 in support thereof. On the basis of the resolution, the petitioner has filed application on 25.09.2013 under Order 1 Rule 10 of C.P.C. for correction of holdings and proclamation which was registered as Revenue Case No. A/6(A) 2013-2014 wherein it has been mentioned that the mutation as per Gram Panchayat resolution dated 03.04.2013 has been passed and the Tahsildar has issued notice to the respondents fixing the case on 05.03.2014.





5. The Tahsildar has passed the order on 17.02.2014 on the basis of resolution passed by Gram Panchayat, Purena Khapri on 03.04.2013 and directed Patwari to correct the record as per the resolution passed by the Gram Panchayat as well as on the basis of mutation of partition. This order was challenged by the petitioner before Commissioner, Raipur by filing an appeal under Section 44(2) of the Chhattisgarh Revenue Code, 1959. That appeal is still pending consideration before the Commissioner, Raipur.
6. Learned counsel for the petitioner would further submit that the FIR registered against the petitioner on the basis of complaint filed by the complainants is illegal and against the provisions of Section 340 of the Cr.P.C. It is further submitted that if any fraud played in court proceedings then as per Section 195 of the Cr.P.C., the prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to false and fabricated documents given in evidence, no Court shall take cognizance of any criminal conspiracy committed before it, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate as such registration of FIR on the basis of complaint made by respondent No. 2 is not tenable.
7. He would further submit that as per Section 340 of the Cr.P.C. wherein provisions as to offences affecting the administration of justice is mentioned. Section 340 of the Cr.P.C. provides for procedure in cases mentioned in Section 195. This Section provides that when, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub- section (1) of Section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that





Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, may conduct the said enquiry.

8. He would further submit that if petitioner has submitted false and fabricated document before the Tahsildar in the revenue Court proceeding then Tahsildar or sub-ordinate to him is the only authority to file a complaint not other individual, in present case respondent No. 2. As such the registration of FIR against the petitioner is illegal and liable to be quashed by this Court.
9. Learned counsel for the petitioner would place reliance upon the judgment rendered by Hon'ble the Supreme Court in **Patel Laljibhai Somabhai Vs. The State of Gujarat<sup>1</sup>**, **Gopalakrishna Menon & another Vs. D. Raja Reddy & another<sup>2</sup>**, **Anil Ritolia @ A.K. Ritolia Vs. State of Bihar & another<sup>3</sup>**, **Robert John D'Souza Vs. Stephen V. Gomes<sup>4</sup>**, **Sasikala Pushpa Vs. State of Tamil Nadu<sup>5</sup>**, **V.Y. Jose & another Vs. State of Gujarat & another<sup>6</sup>**, **Rameshchandra Bhogilal Patel Vs. State of Gujarat & another<sup>7</sup>** & **T. Chandrasekhar Vs. State & another<sup>8</sup>**.
10. On the other hand, learned counsel for respondent No. 2 has filed objection with regard to maintainability of the petition under 482 of the Cr.P.C. mainly contending that the impugned FIR dated 30.03.2017 has been registered against the petitioner on the basis of written complaint submitted by Smt. Kalindri, Kaushal, Santram, Mantram, Nandlal & Gopal. The petitioner had filed the instant petition making State of Chhattisgarh as respondent and thereafter he had made the complainant-Nandlal (respondent No. 2) as party to this case, however, other persons namely Kalindri, Kaushal, Santram, Mantram & Gopal has not been made party though they have also signed and submitted the complaint before the police station against the present

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1 AIR 1971 SC 1935  
2 AIR 1983 SC 1053  
3 2007 AIR SCW 6332  
4 2015 AIR SCW 4343  
5 AIR 2019 SC 2280  
6 2009 AIR SCW 307  
7 2011 Cri.LJ 1395  
8 2011 Cri.LJ 3444



petitioner and their names have been mentioned in the impugned FIR also. Hence, the instant petition is liable to be dismissed by this Court on account of non-joinder of necessary party.

11. She would further submit that Hon'ble the Supreme Court has reiterated time and again that it is improper to quash criminal proceeding under Section 482 of the Cr.P.C. when serious triable allegations are there in the complaint and appreciation of evidence is not permissible at the stage of quashing of the FIR. She would further submit that the petitioner has committed fraud by preparing a false document regarding mutation of records and submission of false panchayat record before the court of Tahsildar, Baloda Bazar. A fraud has been committed by the petitioner firstly with non-applicant and his family secondly with the Gram Panchayat, Purena Khapri and thirdly with the court of Tahsildar, Balodabazar. The Gram Panchayat, Purena Khapri and Tahsildar, Baloda Bazar were not personally affected by the said act of the petitioner. Hence, no legal action can be taken by them against him. She would further submit that the FIR registered against the petitioner is legal, justified and does not warrant any interference by this Court.
12. Learned counsel for respondent No. 1/ State would submit that on due investigation, the Police have *prima facie* found that the concerned Gram Panchayat Purena Khapri had not passed any such resolution on 03.04.2003. In the FIR itself, brother of the petitioner has alleged that such division of ancestral property has been obtained by the petitioner by producing forged document i.e. the resolution passed by the Gram Panchayat before the Court of Tahsildar. Hence, it is clear that the FIR lodged against the petitioner is legal and justified and not liable to be interfered by this Court. He would further submit regarding quashing of FIR placing judgment rendered by Hon'ble the Supreme Court in **State of Andhra Pradesh Vs. Golconda**





**Linga Swamy**<sup>9</sup> and also in **State of Telangana Vs. Habib Abdullah Jeelani & others**<sup>10</sup>. He would further submit that the certain exceptions have been carved out by Hon'ble the Supreme Court in **State of Haryana Vs. Bhajanlal**<sup>11</sup> the present case does not fall within any exception carved by the Hon'ble Supreme court for quashing of the FIR, therefore, the present petition is not maintainable and liable to be dismissed by this Court.

13. This Court while hearing this petition on 28.02.2018 granted interim protection in favour of the petitioner directing that the investigation may go on but no coercive steps shall be taken against the petitioner till the next date of hearing.

14. I have heard learned counsel for the parties and perused the documents available on record with utmost satisfaction.

15. Before advertng to the submissions made by learned counsel for the parties, it is expedient for this Court to extract Sections 195 & 340 of the Cr.P.C., which are relevant for deciding the controversy involved in this petition. Sections 195 & 340 of the Cr.P.C. are as under:-

**“Section 195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.-**(1) No Court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860 ), or

(ii) of any abetment of, or attempt to commit, such offence, or

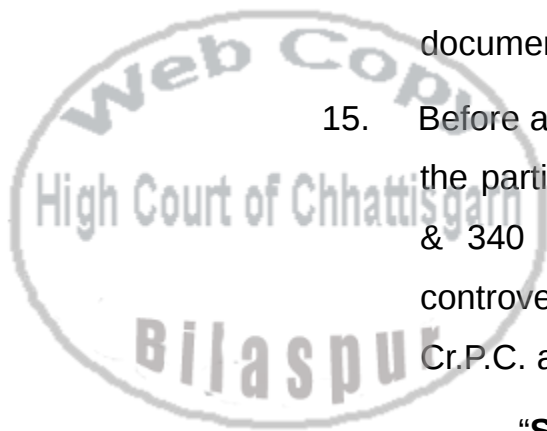
(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860 ), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive)

9 (2004) 6 SCC 522

10 (2017) 2 SCC 779

11 AIR 1992 SC 604







and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub- clause (i) or sub- clause (ii), [except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate].

(2) Where a complaint has been made by a public servant under clause (a) of sub- section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub- section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub- section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court in situate:

Provided that-

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding





in connection with which the offence is alleged to have been committed.”

**“Section 340. Procedure in cases mentioned in section 195.-** (1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub- section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,-

- (a) record a finding to that effect;
- (b) make a complaint thereof in writing;
- (c) send it to a Magistrate of the first class having jurisdiction;
- (d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-ailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and
- (e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub- section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub- section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub- section (4) of section 195.

(3) A complaint made under this section shall be signed,-

- (a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;
- (b) in any other case, by the presiding officer of the Court.

(4) In this section, "Court" has the same meaning as in section 195.”

16. Learned counsel for the petitioner would further submit that registration of FIR alleging submission of false document by the petitioner before the Tahsildar is amounting to giving false and





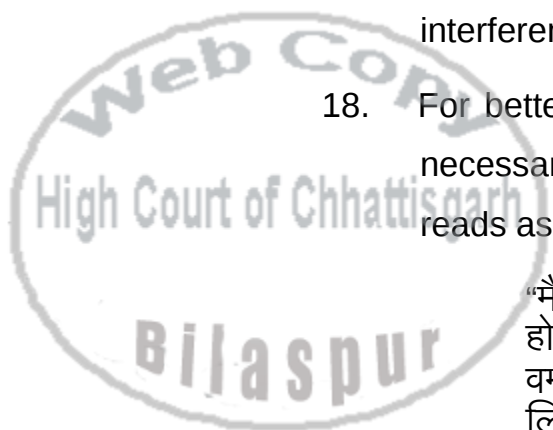


forged documents of panchayat proposal, certainly falls within ambit of offence relating to forged document given in the evidence in the judicial proceeding, therefore, the provisions of Section 195 of the Cr.P.C. will be attracted. He would further submit that Section 340 of the Cr.P.C. also deals with the procedure to be followed in commission of cases mentioned in Section 195 of the Cr.P.C.

17. On the other hand, learned counsel for the State/ respondent No. 1 & respondent No. 2/complainant would oppose the submission made by learned counsel for the petitioner and would submit that since the petitioner has given false documents, therefore, registration of FIR for committing offence punishable under Section 420 is legal, justified and does not warrant any interference by this Court.

18. For better understanding of the factual matrix of the case, it is necessary to extract the relevant paragraph of the FIR, which reads as under:-

“मैं उपनि किशोर सोनी थाना सिटी कोतवाली में पदस्थ होकर कार्यरत हूँ आवेदक नंदलाल वर्मा पिता घसियाराम वर्मा उम्र 62 साल साकिन पुरान थाना पलारी में एक लिखित आवेदन पत्र पु०म०नि० रायपुर को प्रस्तुत किये थे। जो पुलिस अधीक्षक महोदय बलौदाबाजार के माध्यम से थाना सिटी कोतवाली बलौदाबाजार को पुअ/बभ/स्टेनो/शि.पु./आई जी/48-A/16 दिनांक 24.10.16 के माध्यम से प्राप्त हुआ जिसकी जांच आवेदक नंदलाल वर्मा, शंतराम वर्मा, भागीरथी, तनाराम यादव, कलिन्त्री बाई एवं आनावेदक नंदकुमार वर्मा का कथन लेकर एवं उपलब्ध दस्तावेजों का अध्ययन कर किया गया। आवेदक ने सूचना के अधिकार तहत पुरान खपरी पं. ह. नं. 13 का पंचायत बैठक सचिव का दिनांक 27.06.16 का लिखित पत्र प्रस्तुत किये है जिसमें फौती/नामान्तरण संबंधित प्रस्ताव बैठक 3 अप्रैल 2003 को पंचायत बैठक पंजीयन रजिस्टर में उपलब्ध नहीं होना बताये है इस प्रकार सम्पूर्ण जांच तस्दीक पर पाया गया कि उक्त प्रस्ताव को तहसील न्यायालय में नंदकुमार द्वारा प्रस्तुत करने आधार पर बटवारा नामा आदेश होना जो प्रथम दृष्टियां आनावेदक नंद कुमार वर्मा पिता घसिया राम वर्मा उम्र 65 साकिन पण्डरी रायपुर द्वारा अपराध धारा 420 भादवि का घटित करना पाया गया है। आवेदक मूल दस्तावेज प्रस्तुत करने हेतु समय चाहा था किंतु प्रस्तुत नहीं कर सके तथा दिनांक 29.03.17 को उपस्थित होकर कथन प्रस्तुत किये जिसे





आज दिनांक 30.03.17 को प्रकरण पंजीबद्ध किया जाता है। मूल आवेदन पत्र नकल जैल है। प्रति पुलिस महानिरीक्षक रायपुर संभाग छत्तीसगढ़ विषय थाना पलारी एवं जिला पुलिस अधीक्षक जिला बलौदाबाजार भाटापारा द्वारा फर्जी दस्तावेज के प्रकरण में लंबी अवधी तक कार्यवाही नहीं किये जाने के संबंध में महोदय विषय अंतर्गत उल्लेख है कि हम कौशल, संतराम, मंतराम, नंदलाल, सुमित्रा, कौशिल्या, रमशीला, गोपाल सभी वल्द घसिया राम वर्मा एवं कलिन्द्री बेवा घसिया राम वर्मा निवासी ग्राम पुरान थाना पलारी तहसील बलौदाबाजार का रहने वाले हैं। हम लोगो का ग्राम पुरान पटवारी ह0न0 13 में पैतृक कृषि जमीन है जिसका बटवारा हम भाईयो के मध्य नहीं हुआ है हमारे बड़े भाई श्री नंदकुमार वर्मा वल्द घसियाराम वर्मा द्वारा फर्जी पंचायत प्रस्ताव की कापी लगाकर पैतृक जमीन का बटवारा कर खाता विभाजन का कार्य करवा लिया है यह खाता विभाजन नंदकुमार वर्मा ने फर्जी पंचायत प्रस्ताव के आधार पर करवाया है। फर्जी दस्तावेज को उन्होने माननीय तहसीलदार के न्यायालय के समक्ष प्रस्तुत कर आदेश पारित करवा लिया है इस आदेश के पूर्व तहसीलदार महोदय को पंचायत प्रस्ताव के फर्जी होने कि बात बतायी गयी थी किन्तु उन्होने कोई ध्यान नहीं दिया और आदेश पारित कर दिया ज्ञात हो कि ग्राम पंचायत पुरैना खपरी से सूचना के अधिकार के तहत नंदकुमार वर्मा द्वारा प्रस्तुत पंचायत प्रस्ताव के दस्तावेज के सत्यप्रतिलिपि निकाले जाने पर पंचायत अभिलेख में कोई उल्लेख नहीं होने कि जानकारी दी गयी है तथा प्रस्ताव को फर्जी बताया गया महोदय इस फर्जी दस्तावेज के संर्दभ में थाना पलारी में प्रकरण दर्ज करने हेतु हम भाईयो ने दिनांक 28.06.16 को आवेदन दिया (प्रतिलिपि संलग्न) जिस पर लम्बे समय तक प्रभारी थाना पलारी द्वारा किसी प्रकार कि कार्यवाही नहीं करने के कारण जिला पुलिस अधीक्षक बलौदाबाजार के समक्ष दिनांक 15.07.16 को आवेदन प्रस्तुत किया (प्रतिलिपि संलग्न) किन्तु जिला पुलिस अधीक्षक के द्वारा भी इस फर्जी दस्तावेज के विरुद्ध आज तक कोई कार्यवाही नहीं की गयी है महानुभव इस तरह हम सभी भाईयो प्रस्तुत आवेदन पत्र थाना प्रभारी एवं पुलिस अधीक्षक द्वारा कार्यवाही नहीं किये जाने से पुलिस की कार्य प्रणाली संदेह को जन्म देता है। तथा हम सभी भाईयो को न्याय नहीं मिल पायेगा अतः महोदय से करबद्ध निवेदन है कि आवेदक पर सहनभूति पूर्वक विचार करते हुए थाना प्रभारी पलारी एवं पुलिस अधीक्षक जिला बलौदाबाजार को फर्जी दस्तावेज के सन्दर्भ में कार्यवाही करते हेतु आदेश करने कि महान कृपा करेंगे ताकि हम सभी भाईयो को न्याय मिल सके।”

19. From bare perusal of the FIR and considering the contents of the complaint, it is crystal clear that it has been alleged the petitioner has given false documentary evidence relating to resolution of Gram Panchyat dated 03.10.2003 before Tahsildar in revenue case and on that basis, the Tahsildar has mutated the property





in the name of the petitioner, therefore, the provisions of Sections 195 & 340 of the Cr.P.C. will be attracted and it is perjury which amount to forgery, as such, as per the law laid down by Hon'ble the Supreme Court in **Narendra Kumar Shrivastava Vs. State of Bihar**<sup>12</sup>, wherein it has been clearly held that a prosecution under this Section can be initiated only by the sanction of the court under whose proceedings an offence referred to in Section 195(1)(b) has allegedly been committed.

20. Hon'ble the Supreme Court in **Patel Laljibhai Somabhai (Supra)** while examining the purpose and object of the Legislature in creating the bar against cognizance of private complaints in regard to the offences mentioned in Section 195(1) (b) & (c) is both to save the accused person from vexatious or baseless prosecutions inspired by feelings of vindictiveness on the part of the private complainants to harass their opponents and also to avoid confusion which is likely to arise on account of conflicts between findings of the courts in which forged documents are produced or false evidence is led and the conclusions of the criminal courts dealing with the private complaint. It is for this reason as suggested earlier, that the Legislature has entrusted the court, whose proceedings had been the target of the offence of perjury to consider the expediency in the larger public interest, of a criminal trial of the guilty party.

21. Hon'ble the Supreme Court in **Gopalakrishna Menon (Supra)** has held at paragraph 7 as under:-

“7. In view of what we have said above, the prosecution in the instant case on the basis of a private complaint and in the absence of a complaint from the appropriate civil court where the alleged fraudulent receipt has been produced, would not be sustainable. As we are of the view that if the prosecution is allowed to continue serious prejudice would be caused to the appellants and they would be called upon to face a trial which would not be sustainable, we allow

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this appeal and set aside the decision of the High Court and quash the complaint case filed against the appellants.”

22. Hon'ble the Supreme Court in **Narendra Kumar Shrivastava (Supra)** has held that perjury on the basis of private cognizable offence under this Section can be initiated only by the sanction of the court under whose proceedings an offence referred to in Section 195(1)(b) has allegedly been committed. Hon'ble the Supreme Court has held at paragraph 22 to 24 as under:-

“22. In *Sachida Nand Singh* {2000} 1 SCC 278] relied on by the learned counsel for the appellant, this Court was considering the question as to whether the bar contained in Section 195(1)(b)(ii) of the Cr.P.C. is applicable to a case where forgery of the document was committed before the document was produced in a court. It was held:

"6. A reading of the clause reveals two main postulates for operation of the bar mentioned there. First is, there must be allegation that an offence (it should be either an offence described in Section 463 or any other offence punishable under Sections 471, 475, 476 of the IPC) has been committed. Second is that such offence should have been committed in respect of a document produced or given in evidence in a proceeding in any court. There is no dispute before us that if forgery has been committed while the document was in the custody of a court, then prosecution can be launched only with a complaint made by that court. There is also no dispute that if forgery was committed with a document which has not been produced in a court then the prosecution would lie at the instance of any person. If so, will its production in a court make all the difference?

xxx

xxx

xxx

23. The sequitur of the above discussion is that the bar contained in Section 195(1)(b) (ii) of the Code is not applicable to a case where forgery of the document was committed before the document was produced in a court. Accordingly we dismiss this appeal.”

23. In *Sachida Nand Singh* (supra), this Court had dealt with Section 195(1)(b)(ii) of the Cr.P.C unlike the present case which is covered by the preceding clause of the Section. The category of offences which fall under Section 195(1)(b)(i) of the Cr.P.C. refer to the offence of giving false evidence and





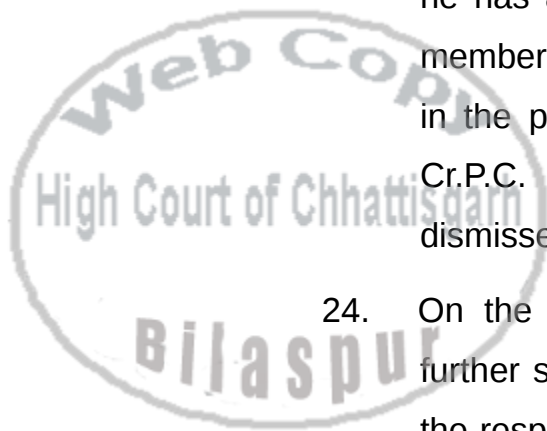
offences against public justice which is distinctly different from those offences under Section 195(1)(b)(ii) of Cr.P.C, where a dispute could arise whether the offence of forging a document was committed outside the court or when it was in the custody of the court. Hence, this decision has no application to the facts of the present case.

24. The case in hand squarely falls within the category of cases falling under Section 195(1)(b)(i) of the Cr.P.C. as the offence is punishable under Section 193 of the IPC. Therefore, the Magistrate has erred in taking cognizance of the offence on the basis of a private complaint. The High Court, in our view, has rightly set aside the order of the Magistrate. However, having regard to the facts and circumstances of the case, we deem it proper to set aside the costs imposed by the High Court.”

23. Learned counsel for respondent No. 2 would submit that since he has already made party to one Nandlal where other family members made the complaints, have not been arrayed as party in the present case, therefore, the present petition under 482 Cr.P.C. is not maintainable and the same is liable to be dismissed by this Court for want of necessary party.

24. On the other hand, learned counsel for the petitioner would further submit that the submission made by learned counsel for the respondent deserves to be rejected by this Court as the FIR has been registered by the police on the basis of the complaint made by the complainants and one of the complainants has already been made party in this petition. In the present case, the authority and jurisdiction of the police to register the FIR is being challenged, therefore, it is not incumbent on the part of the petitioner to array all the complainants as party/respondent in this case.

25. Considering the rival submission of the parties and considering the facts and circumstances of the present case, the petitioner has assailed the registration of FIR and authority of the police to register a private complaint and one of the complainants has already been made party in this case. As such non-impleading the other person on whose complaint, FIR has been lodged is



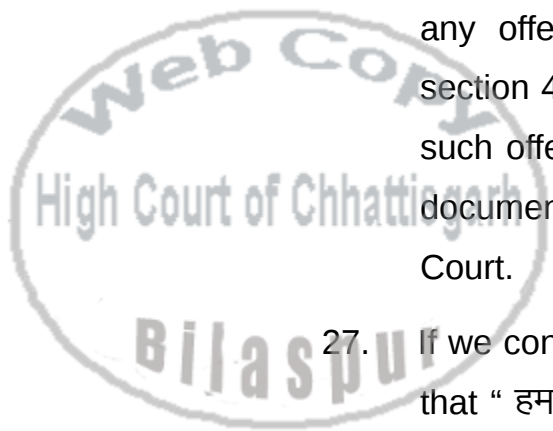




not fatal which lead to dismissal of the petition on this count, therefore the objection raised by respondent No. 2 is not acceptable and deserves to be rejected. Accordingly, the objection is rejected and it is held that this petition quashing of the FIR is very much maintainable.

26. Considering the submission made by learned counsel for the parties and considering the fact as derived from records of the case would clearly demonstrate that the Police have registered the FIR on the basis of complaint made by the non-complainant/respondent No. 2 with regard to the certain submission of alleged forged document of Panchayat resolution dated 03.10.2003. It certainly falls within ambit of Section 195 (ii) of Cr.P.C. which provides that no Court shall take cognizance of any offence described in Section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court.

27. If we consider the contents of the FIR wherein it is clearly stated that “ हमारे बड़े भाई श्री नंदकुमार वर्मा वल्द घसियाराम वर्मा द्वारा फर्जी पंचायत प्रस्ताव की कापी लगाकर पैतृक जमीन का बटवारा कर खाता विभाजन का कार्य करवा लिया है यह खाता विभाजन नंदकुमार वर्मा ने फर्जी पंचायत प्रस्ताव के आधार पर करवाया है । फर्जी दस्तावेज को उन्होने माननीय तहसीलदार के न्यायालय के समक्ष प्रस्तुत कर आदेश पारित करवा लिया है” this clearly establishes that documents were produced in the revenue court proceeding, therefore, the same definitely falls within ambit of forged document and on the basis of forged document as per averment in the FIR certain beneficial orders have been passed in favour of the petitioner, therefore, from the above stated legal proposition as held by Hon'ble the Supreme Court in **Narendra Kumar Shrivastava (Supra)** and **Patel Laljibhai Somabhai (Supra)**, it is crystal clear that the registration of FIR against the petitioner on the basis of complaint made by the respondent No. 2 and other complainants







is not tenable.

28. In view of the above, FIR bearing Crime No. 124/2017 registered against the petitioner on 30.03.2017 on the basis of complaint made by complainant/respondent No. 2 along with other complainants at Police Station- Baloda, District- Baloda-Bazar for committing offence punishable under Section 420 of I.P.C. deserves to be and is hereby quashed. However, the quashing of the FIR registered on the basis of complaint made by private respondents will not dis-entitle the Tahsildar, Balodabazar to take steps as per provisions of Cr.P.C. for alleged submission of false evidence by the petitioner in accordance with law.

29. Accordingly, the present petition is allowed.



**Sd/-**  
**(Narendra Kumar Vyas)**  
**Judge**