

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Reserve: August 13, 2010
Date of Order: 30th September, 2010

+ Crl.M.C.No. 2699/2009

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30.09.2010

Central Economic Intelligence Bureau

... Petitioner

Through: Ms. Satya Siddiqui, Mr. Dalip Singh &
Ms. S.K.Mishra, Advocates

Versus

The State of Delhi & Ors.

... Respondents

Through: Mr. Sunil Sharma, APP for the State
Mr. Suhail Dutt, Mr. Rai S. Mittal &
Mr. Rayner Vishal Dass, Advocates for R-2

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

By this petition, the petitioner has assailed an order dated 21st February, 2009 whereby the learned Additional Sessions Judge dismissed the revision petition filed by the petitioner against an order of learned MM accepting the closure report of the police wherein it was stated by police that no offence under Section 409/420/120-B read with Section 3, 4 & 5 of The Prize Chits and Money Circulation Schemes (Banning) Act, 1978, (in short PCMCS Act) was made out.

2. The petitioner had filed a complaint against respondents no. 2-9 alleging therein that the respondents were indulging into cheating people by floating a scheme of money circulation. It was stated that respondents, in the

guise of creating direct distribution network of its product which included weightloss drugs has been found indulging into violation of provisions of Section 3, 4 & 5 of PCMCS Act. An investigation into these allegations was conducted by the police and after conducting investigation, police filed a closure report. Objections against this were filed by the petitioner. The learned Metropolitan Magistrate however, observed that the law regarding money circulation has been laid down by Supreme Court in State of West Bengal & Ors. v. Swapan Kumar Guha & Ors. (1982) 1 SCC 561 and in view of this judgment of Supreme Court, the case of the respondents/accused was not covered under Section 3, 4 & 5 of PCMCS Act and police rightly filed the closure report. In revision the learned Sessions Judge concurred with the view of learned MM and dismissed the revision petition.

3. The complainant submitted that on analyzing the business model and activities of the company, the marketing strategy was only a camouflage and the product which actually costed very small amount was being marketed at a very high value and each customer for this weight loss drug, if enrolled more customers, was to get commission on the weight loss drug and the amount of commission was so high that the entire scheme was nothing but a money circulation scheme.

4. It is settled law that provisions of Section 482 Cr.P.C. i.e. inherent powers vested in the High Court are to be used to prevent the abuse of process of court or to otherwise secure the ends of justice. But this provision does not confer unlimited jurisdiction on the High Court. This provision cannot be used as a second revision petition against the order of the subordinate court. The inherent powers do not confer an arbitrary jurisdiction

on High Court and these powers are to be used sparingly with circumspection and in rarest of rare cases.

5. In the present case the learned MM had considered the entire scheme and after considering the entire scheme in the light of the judgment of Supreme Court had come to the conclusion that the police had rightly filed a closure report. The learned MM was within his jurisdiction to see whether the investigation done by police was in right direction or not and whether an offence had prima facie been committed or not. If there were good grounds with the learned MM to accept the closure report and to form an opinion that the investigation was done in right directions and there was no reason to reject the closure report, this Court cannot in the garb of Section 482 Cr.P.C. substitute its own opinion in place of opinion of the learned MM and act as an Appellate Court.

6. I consider that the learned MM rightly accepted the closure report and the learned ASJ rightly dismissed the revision petition. I find no reason to interfere with the order of the Courts below. The petition is hereby dismissed.

September 30, 2010
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SHIV NARAYAN DHINGRA, J.