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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 73 of 2015

Manish Nigam (Chairman Renatus Credit Cooperative Society) S/o V.K.Nigam, aged about 27 years, R/o Bhaskar Bhawan, Kedarpur, Ambikapur, District Surguja Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh, Through: The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Raipur, Chhattisgarh.
2. Director General of Police, Head Quarter, Raipur, District Raipur, Chhattisgarh.
3. Superintendent of Police, Korba, District Korba Chhattisgarh.
4. Joint Registrar, Cooperative Society, Vivekanand Complex, Vivekanand Nagar, Pension Bada, Raipur, Chhattisgarh.
5. Station House Office, Police Station Banki Mongra, District Korba, Chhattisgarh.
6. Shiv Prasad Singh Son of Raju Singh, aged about 35 years, R/o Gurudwara Gali, Banki Mongara, District Korba, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Shivendra Bhardwaj, Advocate.
For Respondent No. 1	:	Shri B. Gopa Kumar, Deputy Advocate General

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board

Per Navin Sinha, Chief Justice

02/07/2015

1. The present appeal arises from order dated 15.12.2014 dismissing Writ Petition (Criminal) No. 182 of 2014 declining to quash FIR bearing Crime No. 76 of 2014, registered at Police Station, Banki Mongra, Korba, for offence under Section 420/34 IPC and Sections 4 and 5 of Chit Fund & Money Laundering Act, 1978.

2. Learned Counsel for the Appellant submits that the Appellant is a duly registered cooperative society under the Chhattisgarh Cooperative Societies Act. The object of the society under the bye-laws is to encourage savings by its members and to arrange for its proper investment, giving of loan to the members on payment of interest, providing financial assistance to the members and in general to devise programmes for financial savings by its members. Being a credit cooperative society, it was not required to take clearance or approval from the Reserve Bank of India under the provisions of Banking Regulation Act, 1949. According to the Press Information Bureau, Government of India, publication dated 22.2.2013, Primary Agricultural Credit Cooperative Societies are not prohibited from collecting deposits from members and then lending it to the needy amongst them. A frivolous complaint was filed by Respondent No. 6 and certain others leading to registration of Crime No. 76 of 2014. Relying on AIR 1982 SC 949 (State of West Bengal v. Swapan Kumar Guha), it was submitted that no offence is made out and the provisions of Section 45-1(a) read with Section 58(b) of the Reserve Bank of India Act, have no application in the facts of the case.

3. Learned Counsel for the State opposing the application submitted that at this stage, the objects of the society as mentioned in the bye-laws is not relevant. The sole question is if the allegations in the FIR constitute a cognizable offence and is fit to go for investigation. If they make out an offence read as it is, the extraordinary power for quashing of FIR is not to be exercised. Reliance is placed on an order in Writ Appeal No. 31 of 2015 (Ram Kumar Jaiswal v. State of Chhattisgarh) dated 30.1.2015 affirming the order dismissing writ petition considering inter alia, Swapan Kumar Guha (supra) also.

4. We have considered the submissions and perused the FIR also.

5. The allegations are that the Appellant, Chairman of the Society was accepting time deposits, recurring deposits, running monthly income schemes and having collected investments had locked the office and was absconding. The allegations do not state that collections were from members only. Respondent No.6, the Complainant has also not been described as a member. Notice was issued to the office bearers of the Society mentioned in the FIR to appear before the Investigating Officer but they had failed to do so. There is no pleading in the writ application that no notice had been issued by the Investigating Officer. The FIR further states that preliminary investigation had revealed that originally the Society was known as Aviva Life Insurance Company and after having collected investments had changed its name to a Co-operative Society with the assurance to the investors that it would soon be granted a banking licence.

6. Prima facie, it is evident that the Society is not a Primary Agricultural Credit Society created for the benefit of agriculturist members. The logo of the Society is as follows "RENATUSS" Recreating Values . The rest is a matter for investigation. We are satisfied that the extraordinary power for quashing an FIR at the very inception as not disclosing any offence from the bare recitals is not called for in the nature of the contents of the FIR.

7. For like reasons as discussed in Ram Kumar Jaiswal (supra), we find no reason to interfere with the order under appeal which otherwise is well considered and reasoned.

8. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE

Subbu