

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P No. 806 of 2015

1. Paras Ram Bareth, S/o. Maya Ram Bareth, aged about 39 years, R/o. Bhajandipa, Rajiv Gandhi Nagar, P.S. Jute Mill, Raigarh, Civil & Revenue District – Raigarh (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Station House Officer, P.S. Farsabahal, District Jashpur (C.G.)

---- Respondent

For Petitioner	:	Mr. F.S. Khare, Advocate
For State/respondent	:	Mr. Arvind Shukla, P.L.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/09/2015

1. Challenge in this petition is to the order dated 06.07.2015, passed by the Additional Sessions Judge, Jashpur, District Jashpur, passed in Criminal Revision No.30/2013, whereby the revision preferred against framing of charge was dismissed by the learned Additional Sessions Judge. The charges were framed against the petitioner under Section 420, 467, 468, 471, 409 of I.P.C.
2. Learned counsel for the petitioner would submit that one Sharad Dewangan started a NGO under the name Yuva Kalyan Samiti and he was the head and project officer of the said NGO. Work was assigned to the said NGO and it was the work of the NGO to make a survey in the villages/rural area and thereafter install the hand pumps so that the villagers may get fresh water for their daily need. The sanction of

budget and supervision of the N.G.O. was under the control of Zila Panchayat, Jashpur, District Jashpur. The counsel would submit that the petitioner, who was working in the said NGO as treasurer was appointed on a fixed pay of Rs.8,000/- per month and was working under the control of Sharad Dewangan. He submits that vehicle of the petitioner, Paras Ram Bareth was used for survey of different villages and thereafter, an amount of such charges of use of vehicle was paid to the petitioner. The counsel would further submit that according to the final report, it would reveal that total amount of Rs.3,14,000/- was paid to the petitioner for use of the vehicle, whereas, the bills pertaining to the use of such vehicle of Rs.3,06,000/- was on record to establish the fact that the vehicle was used for survey. He further submits that defalcation amount of Rs.8,000/- was painted out which was the salary liable to be adjusted for amount paid. He further submits that in view of the facts no offence has been committed by the petitioner and he was liable to be discharged.

3. Per contra learned State counsel opposes the same.
4. I have gone through the records. The records would reveal that charge sheet has been filed against three persons namely Sharad Dewangan, Paras Ram Bareth and one Ku. Anjula Chauhan. Reading of the FIR would show that a complaint was made to the Station House Officer, Farasabahar. It was based on a enquiry made by the Zila Panchayat, Jashpur on complaint received. According to the FIR, an amount of Rs. 64,03,276/- was paid to the NGO and on inspection of vouchers it was found that total Rs.22,17,325/- was made as an expenditure and further different amount was paid in personal account of the persons, who were member of Micro Water Shed Committee.

5. Perusal of the FIR would show that an amount of Rs.3,14,000/- was paid in the account of petitioner. The argument which is advanced by the learned counsel for the petitioner that the vehicle was deployed that of the petitioner and the amount of the payment to the extent of Rs.3,06,000/- has been accounted by separate bills, can not be appreciated at this stage. The charges have been framed in this case for preparation of false documents and bills and vouchers also. This novel idea also can not be accepted at this stage as a defence that the person who is a part of the institution will use the money for his own by deploying so called taxi in the project itself. Therefore, since the bills and vouchers that too are subject of dispute, the authenticity of the same can not be accepted at this stage.
6. The Supreme Court in the case law reported in ***AIR 2013 SC 52 (Shoraj Singh Ahlawat and Ors. Vs. State of U.P. and Anr.)*** has held that the Court trying the case can direct discharge only for reasons to be recorded by it and only if it considers the charge against the accused to be groundless. Section 240 of the Code provides for framing of a charge if, upon consideration of the police report and the documents sent therewith and making such examination, if any, of the accused as the Magistrate thinks necessary, the Magistrate is of the opinion that there is ground for presuming that the accused has committed an offence triable under Chapter XIX, which such Magistrate is competent to try and which can be adequately punished by him. The ambit of Section 239 Cr.P.C. and the approach to be adopted by the Court while exercising the powers vested in it under the said provision

fell for consideration of this Court in *Onkar Nath Mishra and Ors. Vs. State (NCT of Delhi) and Anr. (2008) 2 SCC 561 : (AIR 2008 SC (Supp) 204 “ 2008 AIR SCW 96).*

7. Therefore, considering the documents placed alongwith the petition, it can not be substantially held that no prima-facie case is made out against the petitioner.
8. Therefore, taking into account the argument, which has been advanced by the learned counsel for the petitioner, can not be accepted as the Court has to see only prima-facie where there is ground to presume that the accused had committed the offence or not.
9. Reading the contents of FIR and the statement collected by the prosecution would go to show that strong suspicion about existence of facts constituting offence is made out at this stage when the evidence is not adduced.
10. Therefore, in view of the forgoing discussion I am not inclined to interfere with the order of framing of charge at this stage. Accordingly, the petition is dismissed. It is made clear that the Court has not expressed any opinion on merits about admissibility or to draw inference of any accusation and interpretation of statement or evidence.

Sd/-
(Goutam Bhaduri)
Judge