

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3671 OF 2014

Satendra Bashisht Tripathi.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Santosh Pandey i/b SBG & Associates for the Petitioner.

Mrs. M. M. Deshmukh, learned APP for the State.

Mr. V. S. Salunkhe, P.I., CID Crime, Pune.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **February 24, 2015.**

P. C. :

1. By this petition, the Petitioner has sought to quash the proceedings of RCC No.8 of 2005 pending on the file of Sessions Judge, Thane.

2. Pursuant to the complaint lodged by Sandeep Bhavsar, Mumbrai Police Station has registered C.R.No. 291/1999 against the Petitioner and 28 other accused persons for committing offence punishable under sections 406, 420 read with 34 of the Indian Penal Code, 1860. The investigation was subsequently transferred to the State CID, Pune. Upon completion of investigation, charge-sheet has been filed before the Sessions Judge, Thane wherein the Petitioner and some

other accused persons are shown as absconding accused.

3. It is the case of the prosecution that all the accused had started five affiliated companies headed by Galaxy Associates, having its Head Office at Gauriganj, Varanasi, Uttar Pradesh. It is alleged that the said companies had accepted deposits from the public in Maharashtra and thereafter closed down their offices without returning the money to depositors. In all 1020 investors, who had invested an amount of Rs.96,04,653/- were duped by the said companies. The case of the prosecution is that the Petitioner was one of the Directors of the company and that he too was involved in duping the investors.

4. Learned Counsel appearing for the Petitioner contended that at the relevant time, the Petitioner was working as executive officer and his signature was taken on blank papers and with the help of such signature on blank papers, he was shown as director with effect from 20/2/1997. He submitted that after such purported appointment as director, next AGM of the company was due on 27/2/1997 and therefore his tenure as additional director cannot be said to be

more than 7 days. To buttress his contention, learned Counsel drew our attention to the order dated 27th February 2009 passed by the Special C.J.M, Varanasi in Case No 463 of 2001 exonerating the Petitioner from the said case invoking the provisions of section 633 of the Companies Act, 1956.

5. Mrs. Deshmukh, learned APP for the State opposed the petition very strenuously. She submitted that record of the Registrar of Companies indicates that the Petitioner was appointed as additional director from February 1997. She submitted that Galaxy Group of Companies committed fraud between the period 1/4/1996 to 8/7/1999 and undoubtedly the Petitioner was additional director with the said company for some time during the very same period. She further submitted that charge-sheet is already filed and therefore it is not the fit case for quashing.

6. Having considered the rival submissions, we are not inclined to entertain this writ petition. At the outset, it may be mentioned that the Petitioner herein, who is shown as an absconding accused has sought quashing of the criminal proceedings without placing on record the complete charge-

sheet. Hence, the proceedings cannot be quashed without going through the entire records.

7. Be that as it may, a perusal of the FIR reveals that the alleged crime was committed from 1/4/1996 till 8/7/1999. The records *prima facie* reveal that the Petitioner - accused was associated with the company during the relevant period and was the director with effect from 20.2.1997. This is not a stage to consider the defence of the Petitioner that his signature was obtained on a blank paper and on the basis of the same he was shown as an Additional Director. Similarly, judgment dated 27th February 2009 of the Special CJM, Varanasi is irrelevant in terms of section 43 of the Indian Evidence Act and cannot be relied upon to carry forward the defence of the Petitioner that Form No.-32 was fabricated. The FIR *prima facie* discloses commission of cognizable offence.

8. Under the circumstances, we do not find this a fit case for quashing the proceedings in exercise of extra-ordinary jurisdiction of this Court. Hence, writ petition is dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]