

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 138 of 2013

1. Manish Sharma S/o R.C. Sharma Aged About 33 Years R/o Shiva Medical Main Road, Baloda Bazar Police Station Baloda Bazar, Tahsil And Distt. Baloda Bazar-Bhatapara, Civil Distt. Raipur And Revenue Distt. Baloda Bazar-Bhatapara C.G.
2. Manharanlal Chandra S/o Late Sunderlal Chandra Aged About 41 Years Occupation Advocate, R/o Durga Chowk, Baloda Bazar, Police Station Baloda Bazar, Tahsil And Distt. Baloda Bazar-Bhatapara, Civil Distt. Raipur And Revenue Distt. Baloda Bazar-Bhatapara C.G.
3. Shailendra Kumar Twivedi S/o Vishnu Prasad Trivedi Aged About 31 Years R/o Village Pausari, Police Station And Tahsil Baloda Bazar, Distt. Baloda Bazar-Bhatapara, Civil Distt. Raipur And Revenue Distt. Baloda Bazar-Bhatapara C.G.
4. Ritesh Kant Bhishnoi S/o Shankar Lal Bishnoi R/o Suresh Cycle Stores, Nehru Chowk Baloda Bazar Police Station And Tahsil Baloda Bazar, Distt. Baloda Bazar-Bhatapara, Civil Distt. Raipur And Revenue Distt. Baloda Bazar-Bhatapara C.G.
5. Umesh Kumar Agrawal S/o Ashwani Kumar Agrawal Aged About 37 Years R/o Civil Lines, Baloda Bazar, Police Station And Tahsil Baloda Bazar, Distt. Baloda Bazar-Bhatapara, Civil Distt. Raipur And Revenue Distt. Baloda Bazar-Bhatapara C.G.
6. Rajesh Kumar Saraf S/o Late Shri Bhagwaandeen Saraf Aged About 50 Years R/o Sadar Road, Baloda Bazar, Pro. Rajesh Time Centre, Baloda Bazar, Police Station And Tahsil Baloda Bazar, Distt. Baloda Bazar-Bhatapara, Civil Distt. Raipur And Revenue Distt. Baloda Bazar-Bhatapara C.G.
7. Premlal Sharma S/o Kanshi Ram Aged About 65 Years R/o Indira Colony, Baloda Bazar, Police Station And Tahsil Baloda Bazar, Distt. Baloda Bazar-Bhatapara, Civil Distt. Raipur And Revenue Distt. Baloda Bazar-Bhatapara C.G.
8. Ganesh Bhattar S/o Shri Bhanwar Lal Bhattar Aged About 57 Years R/o Near Talkies, Baloda Bazar, Police Station And Tahsil Baloda Bazar, Distt. Baloda Bazar-Bhatapara, Civil Distt. Raipur And Revenue Distt. Baloda Bazar-Bhatapara C.G.

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Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station Baloda Bazar, Distt. Baloda Bazar-Bhatapara C.G.
2. Akash Gupte, Branch Manager, State Bank Of India, Baloda Bazar, Distt. Baloda Bazar-Bhatapara C.G.
3. Reserve Bank Of India Through Its Chief General Manager, Raipur, Distt. Raipur C.G.

---- Respondent

For Petitioners	Mr. Awadh Tripathi, Advocate
For Respondent /State	Mr. Bhaskar Pyasi, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

C.A.V. Order

4/3/2016

1. The petitioners have preferred this petition under Article 226 of the Constitution of India for quashment of the First Information Report (henceforth 'the FIR') as well charge sheet of Crime No.223 of 2011 registered at Police Station Baloda Bazar, District Baloda Bazar-Bhatapara for commission of offence punishable under Section 489-B of the Indian Penal Code (henceforth 'the IPC').
2. The FIR has been lodged by the Branch Manager, State Bank of India, Baloda Bazar Branch on 21.06.2011, *inter alia*, alleging that during the Banking Year 2009-10, the accused persons have deposited counterfeit currency notes of Rs.1000/-, Rs.500/- and Rs.100/-, which were sent for confirmation to the Reserve Bank of India (henceforth 'the RBI'), on which, a report was received to the effect that the

currency notes are not genuine, but are counterfeit. The RBI also directed the Bank to lodge FIR with the local police authorities.

3. It is argued by the learned counsel appearing for the petitioners that one counterfeit currency note has been recovered from each of the petitioner, therefore, it is not a case where FIR should have been lodged in view of the RBI's communication/instructions dated 25.07.2011. Learned counsel would submit that under the said communication/procedure for detection counterfeit banknotes, the FIR was required to be lodged only when the counterfeit notes are more than 4 in numbers.
4. Per contra, learned counsel appearing for the respondent/State would submit that huge numbers of counterfeit notes were recovered from many persons. Individually it may appear that only one counterfeit currency note has been recovered from each of the petitioner, but there appears to be a carefully planned design to circulate counterfeit notes in the market by a group of persons and it appears to be a conspiracy.
5. The entire petition seeking quashment of the FIR as well as the charge sheet is based on RBI's instructions dated 25.07.2011, however, a reading of the said instructions nowhere indicates that in cases where only one note is recovered from a person FIR need not be lodged. The instructions directs lodging of FIR at the end of the month when the counterfeit notes are up to 4 and 5 or more. Thus,

there being no direction not to lodge FIR when only one note is recovered, the ground of challenge fails.

6. A careful reading of the FIR would indicate that during the Banking Year 2009-10 forged currency notes were deposited by different persons almost every month and in some cases, more than one notes have been deposited in a month. It appears some gang was operating in the area for circulating counterfeit notes through members of public in a concerted and conspiratorial manner. The culpability part of the act of depositing counterfeit notes can only be proved after recording of evidence before the trial Court.
7. The petitioners would get ample opportunity before the trial Court to prove their defence but once it has been found that the petitioners are involved in depositing counterfeit notes and there being direction from the RBI to lodge FIR it cannot be said that the subsequent general circular/instructions would have the effect of withdrawing the earlier direction of RBI. Once the FIR in relation to counterfeit notes has been lodged, it cannot be quashed on the ground that only one note was found. If this is allowed, a group may engage people to deposit one note in every single transaction and avoid the rigors of law by saying that only one note per transaction has been deposited.
8. In **State of Maharashtra & Ors. v. Arun Gulab Gawali & Ors**¹, it has been held by the Supreme Court that powers

¹ AIR 2010 SUPREME COURT 3762

under Article 226 of the Constitution for quashing criminal proceedings have to be exercised very sparingly, with circumspection, that too in very rarest of rare cases.

9. In **Bharat Amratlal Kothari and another v. Dosukhan Samadkhan Sindhi and others**², it has been held that powers under Article 226 cannot be exercised to quash an FIR which made out *prima facie* commission of offence.
10. In **State of Andhra Pradesh v. Gourishetty Mahesh and others**³, the Supreme Court has reiterated the duty of the writ Court while considering prayer for quashment of criminal proceedings.
11. In **Padal Venkata Rama Reddy alias Ramu v. Kovvuri Satyanarayana Reddy and others**⁴, it has been held that quashing of criminal proceedings under Article 226 of the Constitution or under Section 482 CrPC is permissible only if the complaint does not disclose any offence or the same is frivolous, vexatious or oppressive. It is held that the High Court cannot get into meticulous analysis of facts as to likelihood of acquittal or conviction.
12. In **C.P. Subhash v. Inspector of Police, Chennai and others**⁵, it has been held that the High Court in ordinary course should not invoke its powers to quash such proceedings except in rare and compelling circumstances.

2 (2010) 1 Supreme Court Cases 234

3 (2010) 11 Supreme Court Cases 226

4 (2011) 12 Supreme Court Cases 437

5 (2013) 11 Supreme Court Cases 559

13. In view of the well settled principles of law laid down by the Supreme Court, the High Court, while deciding the petition under Article 226 of the Constitution of India, is not required to meticulously examine the material to find out as to whether the offence is made out against the petitioner or not.
14. Considering the scope of interference in matters wherein prayer for quashment of FIR and charge sheet is sought, no case for interference is made out. Accordingly, the writ petition deserves to be and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Gowri