

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 288 of 2013

1. Anita Singh W/o Mohan Singh, aged about 57 years, R/o Deepupara, Suraj Apartment, Tarbahar, PS Tarbahar, Bilaspur, CG
2. Pooja Okoner W/o M. L. Okoner, aged about 36 years, R/o Siddhrth Nagar, Vyapar Vihar, PS Tarbahar, Bilaspur, CG

---- Petitioners

Versus

State of Chhattisgarh through Police Station Civil Line, District
Bilaspur (CG)

---- Respondent

For Petitioners	:	Shri Amit Kumar, Advocate.
For Respondent/State	:	Shri Bhaskar Payashi, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/11/2016

Challenge in the present petition under Section 482 CrPC is the order dated 22.09.2012 passed by the 3rd Additional Sessions Judge, Bilaspur in Criminal Revision No. 126/2012.

2. Counsel for the petitioner submits that there is no material available with the prosecution to implicate the petitioners for the offence under Sections 409 and 420 of IPC. He submits that the Court below ought to have appreciated the fact that the material document itself is not there along with the case diary by which the offence which has been charged against the petitioners could have been established or made out. He further submits that without any documentary materials available on record, the Court below could not have framed charge against the petitioners for the offence under Sections 420 and 409 of IPC. Thus, prayed for setting aside of the impugned order.

3. State counsel opposing the petition submits that it is a case of embezzlement, cheating and fraud on the part of the two petitioners herein. According to the State counsel, petitioner no.1 has acted as an agent of the post office and collected money from the depositors but has not credited the same in their accounts. The other allegation against petitioner no.1 is that though the petitioner no.2 is the authorized person for collecting money but petitioner no.1 projecting herself to be the petitioner no.2 has collected the money from the depositors. He further submits that the charge has already been framed against the petitioners about four years back and at this juncture, it would not be proper and justified for this Court now to quash the entire charge levelled against them. Thus, prayed for rejection of the petition.

4. Having considered the contentions put forth by the counsel appearing on either side and on perusal of the record what is reflected is that it is a case where there are serious allegations levelled by the prosecution against the petitioners. Now, whether there are materials available with the prosecution for convicting the petitioners are all matter of evidence which would be considered by the Court below after the prosecution leads its evidence. This Court, at the stage of framing of charge, would not sit as an appellate Court nor would in exercise of its powers under Section 482 CrPC conduct a mini trial or a roving inquiry against the framing of charge so as to reach to a conclusion as to whether the materials available on record could lead the conviction of the petitioners or they could be acquitted. This would be thrashed out after recording of evidence on either side.

5. For the aforesaid reasons, this Court is of the opinion that no strong case has been made out so as to take a view that no offence has been made out against the petitioners at all.

6. Thus, the present Cr.M.P. being devoid of merit deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
JUDGE

Bhola