

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL MISC. PETITION NO. 749 OF 2016**

1. Vinod Kumar Khatri, aged about 59 years (Chartered Accountant) S/o late Shri Narayan Khatri R/o AS-103, Agyeya Nagar, Bilaspur (CG).
2. Smt. Pooja Khatri, aged about 55 years W/o Vinod Kumar Khatri, aged about 59 years (Chartered Accountant) S/o late Shri Nayaran Das Khatri, R/o AS-103, Agyeya Nagar, Bilaspur (CG).

... Petitioners**Versus**

1. State of Chhattisgarh through Station House Officer, Police Station, Tarbahar, Bilaspur (CG).
2. Yashwant Tiwari S/o late Shri Chandrika Prasadl, aged about 53 years, R/o Block D/2, Flat No.7, First Floor, Shriram Towers, Vyapar Vihar, Bilaspur (CG).

... Respondents

For Petitioners	:	Shri Praveen Das, Advocate.
For Respondent No.1	:	Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25/07/2016**

1. This petition has been preferred under Section 482 CrPC seeking for quashment of the criminal complaint case No. 402/2013 filed by the respondent No.2, pending before the court of Judicial Magistrate First Class, Bilaspur (for short, JMFC).
2. Facts in brief necessary for disposal of this petition are that, the petitioner No.1 is a qualified Chartered Accountant practicing at Bilaspur and the respondent No.2 is a sub-broker of M/s Ventura Securities Ltd. Mumbai which is licensed and registered with Securities and Exchange Board of India (for short, SEBI). The

respondent No.2/complainant, a practicing Advocate, is said to have filed a complaint that the petitioners without his consent is said to have traded certain shares which were held by him and that he has not received the money out of the said trading of the shares.

3. Learned counsel appearing for the petitioner submits that the respondent No.2 has made a complaint in this regard to the police authorities, but the police authorities had after due investigation given a report that no case is made out as entire transaction is in accordance with rules of SEBI. Further, an application was also moved by the complainant before the SEBI who has also closed the matter holding that there was no merit in the application filed by the complainant and despite valid service of notice, he has chosen not to appear before it (SEBI).
4. At this juncture, it is reflected from the record, more particularly Annexure P/4 of the petition, that the petitioners have also moved an application for discharge before the court below under Section 239 read with Section 245 CrPC. The said application was filed by the petitioners as early as on 11.11.2013 and which is still pending consideration for almost three years.
5. Therefore, at this juncture, since the petitioners have already moved an application before the court below for discharge, in the opinion of this court the present petition is not maintainable and without commenting anything on the merits of the case, this petition is being disposed of with a direction to the trial court to decide the said application filed by the petitioners at the earliest.

6. It has been informed by the counsel for the petitioners that the next date of hearing of the case before the court below is 09.09.2016, therefore, it would not be proper to prepone the case at this stage, however, it is directed that from the next date i.e. 09.09.2016, as stated by the counsel for the petitioners, the court below shall make all endeavors to decide the said application preferably within a period of three months which starts from 09.09.2016.
7. With the aforesaid direction, the petition stands disposed of.

Sd/-

(P. Sam Koshy)
JUDGE