

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 114 of 2016

Premal Dewangan S/o. Shankarlal Dewangan, aged about 39 years,
Resident of House No. 82, Riddhi Siddhi Colony, Rajnandgaon, Tahsil
and District Rajnandgaon (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh Through: Station House Officer, Police Station-
Basantpur, District Rajnandgaon (C.G.).
2. Usha Mugankar, aged about 23 years, Daughter of Jhaduram
Mugankar, Resident of village- Narayanpur, Post- Chichola, Tahsil-
Dongargarh, District- Rajnandgaon (C.G.)

---- Respondents

For Petitioner	:	Mr. K.K. Singh, Advocate
For Respondent No.1/State	:	Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27/01/2016

1. This instant petition under section 482 of Cr.P.C. is filed to quash
the FIR bearing Crime No. 396/2015 under section 420 of IPC
before Police Station – Basantpur, District – Rajnandgaon (C.G.)
2. Learned counsel for the petitioner submits that the petitioner is one of
the Director of Yalsco Real Estate & Agro Farming Limited and the
company was incorporated under the Companies Act to develop the
land, thereafter, the land was allotted to the different allottees. He
further referred to notice captioned as “ अधिसूचना ” and would submits
that only the job of the company was to give lands in the installment to
the purchasers by developing the same. He further submits that the

money which was deposited by the complainants was not meant for multiplying the same and giving the return in double, instead the land was to be given after development. He further submits that the entire allegations are frivolous and no case is made out against the petitioner, therefore, counsel for the petitioner prays that the FIR lodged by the complainant be quashed.

3. Counsel for the State vehemently opposes the same and submits that the company was actually dealing in the money circulation was not authorized to receive the amount from the general public at large to double the same as was promised. It is stated that the company may have been given licence to develop the lands but was not authorized to receive the money by circulation as it was not authorized to do so. Consequently, the offence *prima-facie*, is made out.
4. Perused the documents filed alongwith the petition and the contents of the agreement for joint venture association which was executed in favour of one Usha Mugankar and Nirmala Bai etc. Perusal of the terms and conditions of the agreement shows that the money was received from the complainant for a period of 3 /6 years on 03.03.2011 and the promises was made that it would be considerable multiplication. Few of the agreements also shows that the maturity amount was anticipated. Thereby, certain money circulation was in operation. The notification which was investigated goes to show that publication was made to provide the lands in installment and perusal of the agreement, *prima-facie*, shows otherwise. Consequently, the FIR which is made necessarily requires investigation.

5. The Hon'ble Supreme Court in case law reported in **(2013) 10 SCC 581, Vinod Raghuvanshi Vs. Ajay Arora & Others**, at para 30 has held as under:-

30. It is a settled legal proposition that while considering the case for quashing of the criminal proceedings the court should not “kill a stillborn child”, and appropriate prosecution should not be stifled unless there are compelling circumstances to do so. An investigation should not be shut out at the threshold if the allegations have some substance. When a prosecution at the initial stage is to be quashed, the test to be applied by the court is whether the uncontroverted allegations as made, prima facie establish the offence. At this stage neither can the court embark upon an enquiry, whether the allegations in the complaint are likely to be established by evidence nor should the court judge the probability, reliability or genuineness of the allegations made therein. More so, the charge-sheet filed or charges framed at the initial stage can be altered/amended or a charge can be added at the subsequent stage, after the evidence is adduced in view of the provisions of Section 216 Cr.P.C. So, the order passed even by the High Court or this Court is subject to the order which would be passed by the trial court at a latter stage.”

6. In view of the above, after perusal of the documents, I am not inclined to invoke the extra-ordinary jurisdiction of this Court vested in it under Section 482 of Cr.P.C. to quash the FIR at the threshold.
7. Accordingly, the petition fails and it is dismissed at the motion stage itself.

8. It is noted that the Court has not expressed any opinion while dismissing the petition.

Sd/-

(Goutam Bhaduri)
Judge

Santosh