

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 497 OF 2015

Dilip Kumar Narkhede S/o Late Shri. S.R. Narkhede, Aged About 52 Years R/o A-46, Vasundhara Nagar Changorabhata, Raipur, Police Station Dindayal Nagar, District Raipur Chhattisgarh.

... Petitioner

Versus

1. State of Chhattisgarh Through Principal Secretary, Department of Home, New Mantralaya, Raipur Chhattisgarh.
2. Superintendent of Police Raipur, District Raipur Chhattisgarh.
3. Officer In Charge, Police Station Mova (Pandri) District Raipur Chhattisgarh.

... Respondents

For Petitioner	:	Shri Ravish Verma, Advocate.
For Respondent/State	:	Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29.08.2016.

1. The present petition has been preferred by the petitioner invoking the provisions of Section 482 CrPC seeking for quashment of FIR filed by the complainant-Neelkanth Khatkar which was registered as Crime No.45 of 2015 at Police Station Pandri, Raipur, on 20.02.2015.
2. Learned counsel appearing for the petitioner submits that he intends to assail the FIR on the ground that the same complainant i.e. Neelkanth Khatkar had on earlier occasion lodge a complaint for the same transaction and same amount at Police Station, Deendayal Nagar, Raipur, which was unregistered complaint and the police authorities had conducted the preliminary inquiry of the matter and the investigating officer vide its report dated 20.12.2014 had reached to a

conclusion that the allegation and the complaint made by the complainant against the present petitioner are false and baseless and accordingly the matter was closed there itself without further proceeding with the complaint.

3. According to petitioner, the complainant subsequently using his influence in the society filed another complaint this time before the Police Station, Pandri, Raipur, which has been registered as FIR No.45 of 2015 on 20.02.2015. The contention of the petitioner is that there has been no role played whatsoever in the said commission of offence by the petitioner and the entire allegations are false and baseless. It is further submitted that allegation lodged by the complainant was because of certain personal vendetta which the complainant had against the petitioner and the allegations are false and baseless based on manipulated document. It is a case where the complainant has got no nexus whatsoever with the said company namely Anex India Security and neither was he the authorized officer on behalf of the said company on the basis of which he could be said to be an agent of the said company for the purpose of collecting funds for and on behalf of the company. In the absence of any such valid material, FIR ought not to have been processed and the complaint should have been closed at the threshold itself.
4. It is also submitted by the petitioner that police authorities have also not taken into consideration the closure report which have been submitted by the Investigating Officer of the Police Station Deen Dayal Nagar, Raipur, and for which reason also, the present FIR needs to be

quashed. In support of his contention, he relied upon para 25 of judgment of Supreme Court in case of Harshendra Kumar D. Vs. Rebatilata Koley and Others, reported in 2011 (3) SCC 351 and submitted that petitioner should not be relegated to question travesty of justice by facing the trial and is asked to prove his defence before the trial court. Thus, prayed for quashing of FIR lodged against the petitioner at Police Station Pandri, Raipur.

5. Learned counsel for the State however opposes the petition on the ground that prima facie sufficient material was found in the course of investigation and that subsequent to the filing of FIR, charge sheet has already been filed on 05.09.2014 i.e. much after filing of the present petition which has not been questioned by the petitioner and therefore, the petition in its given form may not be sustainable. It is also submitted that a perusal of charge sheet would prima facie appear that the complainant was persuaded to make investment of Rs.1,10,000/- to the said company i.e. Anex India Security of which the petitioner had claimed himself to be the head for the Chhattisgarh region. He would also refer to statement of Bhuneshwar Bhardwaj, who is stated to be a friend of the petitioner, and who had introduced the petitioner to the complainant Neelkanth Khatkar and at the behest of said witness Bhuneshwar Bhardwaj, the complainant was influenced to make the investment with the said company. Thus, according to the State counsel, there was prima facie sufficient material with the court below to proceed further with the case and to

file the charge sheet, and therefore, prayed for rejection of the petition.

6. Having considered the rival contentions put forth on either side and on perusal of record what is reflected is that there is specific allegation against the petitioner of having received Rs.1,10,000/- from the complainant on assurance of providing interest @ 18 percent on the said amount. It is also a case where the police authorities in the course of investigation had recorded the statement of Bhuneshwar Bhardwaj who has also categorically stated against the petitioner of having received money from the complainant at the house of Bhuneshwar Bhardwaj himself. Thus, from the plain reading of charge sheet there is prima facie material available for proceeding further with the case against the petitioner.
7. The question whether the petitioner was holding a responsible post in the said company are the facts which has to be thrashed out in the course of recording evidence. The same cannot be decided at this initial stage of criminal proceeding. It is a matter of evidence as to what role has been played by the petitioner in the entire transaction and whether the allegation made by the complainant is false or malafide.
8. The High Court while exercising its inherent power under Section 482 Cr.P.C. would not conduct a roving inquiry and would not sit as an appellate authority to appreciate the entire evidence on record so as to reach to a conclusion whether any offence is made out against the

petitioner or not and whether with the available record he could be convicted for the said offence or not.

9. Another aspect of the matter is the fact that subsequent to the filing of the charge sheet, the said charge sheet has not been questioned by the petitioner and the present petition has been filed much after filing of the charge sheet but the petitioner has only prayed for quashing of the FIR. Thus, in the opinion of this court, the present petition in its present form is not sustainable.
10. So far as quashing of FIR or proceeding before the court below is concerned, the law is well settled that at the time of lodging of the FIR what would required to be seen is whether in the nature of complaint which has been received by the police authorities, a prima facie case has been made out or not, and the police authorities need not to go into the minute details of the contents of the case and to reach a conclusion whether it is a case of conviction or not is made out at the time of lodging of the FIR.
11. In the document which has been enclosed along with charge sheet, it clearly reflects that firstly there is a statement of Bhuneshwar Bhardwaj wherein specific allegation has been levelled against the petitioner by the said Bhuneshwar Bhardwaj; secondly, there is an allegation of payment of Rs.1,10,000/- being made by the complainant Neelkanth to the present petitioner which prima facie discloses that there are certain materials available in the case diary against the petitioner sufficient enough for lodging FIR and also for filing of charge

sheet. Thus, in the opinion of this court, no strong case is made out for quashing of FIR No.45/2015, registered at Police Station, Pandri, Raipur.

12. Accordingly, the petition being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
JUDGE

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