

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 639 of 2016

Ayub Shah S/o Momin Shah, aged about 38 years, R/o village Panchughanta, Jaleswar, PS Jaleswar, District Baleswar (Odisha)

---- Petitioner

Versus

State of Chhattisgarh through the Station House Officer, Police Station Kurud, District Dhamtari (CG)

---- Respondent

For Petitioner	:	Shri B. D. Guru, Advocate.
For Respondent/State	:	Shri Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/11/2016

The present petition under Section 482 CrPC has been filed against the order dated 20.08.2015 wherein the Chief Judicial Magistrate, Dhamtari has framed charge against the petitioner for the offence under Sections 420/34 and 409/34 of IPC and Sections 4 & 5 (३), 4 Part-c of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

2. Counsel for the petitioner submits that the petitioner is aggrieved by the order of the CJM in framing of charge. According to the counsel for the petitioner, from a plain reading of the statement of complainant Likhan Nirmalkar itself, the role of the present petitioner is not disclosed. He submits that there is also a doubt created in the prosecution story whether Shiv Kumar to whom the complainant had made the payment was in fact an agent of the Company of which the petitioner is a Director. He further submits that the allegation itself is that the complainant was influenced by Shiv Kumar who allegedly acted as a Company's agent in which the

petitioner is a director for investment of money with a promise of huge return along with prize of a gold coin. Thus, according to the counsel for the petitioner, prima facie from the statement of the complainant itself no offence has been made out against the petitioner nor is there any allegation against the petitioner in any manner being played in the alleged transaction. Thus, counsel for the petitioner prayed for quashment of the framing of charge against the petitioner under Section 409/34 of IPC.

3. State counsel opposing the petition submits that this Court under Section 482 CrPC would not conduct a mini trial or a roving inquiry to reach to a conclusion whether the petitioner had any role to play in the alleged commission of offence. He further submits that the submission of the counsel for the petitioner is a fact which can only be decided after recording of the evidence and at this juncture, it would not be proper for this Court to enter into the merit of the case and decide whether the offence against the petitioner is made out or not. 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 clearly reflects is the fact that the allegation against the petitioner is that he is one of the directors of the Company known as Greenray International Limited. It is alleged that one Shiv Kumar was an agent of the said Company. It is the further case of the prosecution that complainant Likhan Nirmalkar is said to have been influenced by the agent of the Greenary International Limited namely Shiv Kumar to make investment of money in the said Company with a promise of huge return and also the gifts that would be given by the said company to each of the investors.

5. Now, whether the said Shiv Kumar was an agent of the Company Greenray International Limited or not is a fact which can be ascertained only after recording of the evidence before the Court below. Further, whether

the present petitioner had any role to play in the alleged offence again is a matter of evidence which cannot be looked into at this stage by this Court while exercising the power under Section 482 CrPC particularly at the stage of framing of charge.

6. For the aforesaid reasons, this Court is of the opinion that no strong case is made out for interfering with the impugned order dated 20.08.2015 framing of charge against the petitioner. Accordingly, the present CrMP being devoid of merit is dismissed.

Sd/-

(P. Sam Koshy)
JUDGE