

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 605 of 2016

Hetram Chouhan S/o Late Shri Puniram Chouhan, aged about 57 years, presently posted as Assistant Commissioner, Tribal Development, Janjgir Champa, District Janjgir Champa, Chhattisgarh. R/o Vinoba Nagar, Raigarh, Tehsil, Post & District Raigarh, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh through Schedule Tribe, Schedule Caste & O B C Development Department, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. Collector, Janjgir Champa, District Janjgir Champa, Chhattisgarh.
3. Sub Divisional Magistrate (Revenue), Sakti, District Raigarh, Chhattisgarh.
4. Thana Incharge, Police Station Jaijpur, District Janjgir Champa, Chhattisgarh.
5. Tehsildar Jaijpur, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Harsh Wardhan, Advocate.
For Respondent-State	:	Mr. O. P. Gupta, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/11/2016

The present petition under Section 482 CrPC has been filed seeking for quashment of the entire criminal proceedings pending before the JMFC, Jaijpur in Criminal Case No. 700/07

2. The case of the prosecution in brief is that the petitioner at the relevant point of time was posted as Chief Executive Officer at Janpad Panchayat Jaijpur, District Janjgir-Champa and at present he is working as an Assistant Commissioner, Tribal Development at Janjgir-Champa. Allegation against the petitioner is that in the course of discharge of his duties as a Chief Executive Officer, there were certain embezzlements said to have been committed in the course of construction/execution of Indira Awas Yojna and certain forged and fabricated bills were processed and released and the

payments were made at the behest of the petitioner being the CEO. It was also the case of the prosecution that the construction of the houses under the Indira Awas Yojana was not as per the specifications yet the bills have been released in accordance with the specifications leading to the loss to the State Exchequer and also amounted to defrauding the State.

3. Counsel for the petitioner submits that so far as the present petitioner is concerned, if the entire contents of the charge sheet on its face value are taken into account, the only allegation against the petitioner is that of releasing of the funds to different agencies executing the work in the capacity of CEO. According to the counsel for the petitioner, it is a case where the present petitioner being the CEO happens to be the signatory for releasing the payments whereas the execution, supervision and the other technical aspects of the construction are assigned to the other subordinate officers and the petitioner as a CEO does not have the supervisory jurisdiction. He further submits that even if the entire contents of the charge sheet is taken into account, the prosecution has not been able to establish as to what sort of connivance or fraud has been hatched by the petitioner except for putting his signature on the cheques which were released to the different agencies so as to bring home the offence for which he has been charged with. Counsel for the petitioner submits that the report on the basis of which the action has been initiated against the petitioner was prepared by the Tahsildar of Jaijipur which is again without any jurisdiction or authority. According to the petitioner, the Tahsildar could not have conducted an enquiry and submit a report and the prosecution also could not have initiated proceedings against the petitioner only on the basis of the report of a person who is not otherwise authorized. In the given facts and circumstances of the case counsel for the petitioner prayed for quashment of the entire criminal proceedings.

4. State counsel however, opposing the petition submits that firstly the CrMP itself deserves to be dismissed only on the ground of delay. Secondly, on perusal of the record it reflects that since there is an admission of the petitioner to the extent of putting his signature on the cheques, there was prima facie some role played by the petitioner. He submits that the allegations which have been levelled against the petitioner are quite serious and it is for the trial Court to decide whether the charges levelled against the petitioner are made out or not. At this stage all that this Court may look into is whether there is prima facie material available against the petitioner or not. Thus, counsel for the State prayed for rejection of the petition.

5. Having considered the contentions put forth by the counsel for the parties and on perusal of the record prima facie this Court is of the opinion that the petition has been filed at a much belated stage. The FIR in the instant case was lodged on 05.05.2000 i.e. almost 16 ½ years ago. The petitioner immediately applied and obtained bail and since then he is on bail. The charge sheet was filed on 26.12.2005 i.e. about 11 years ago. Even then the petitioner did not think it proper for getting the criminal proceedings quashed which he now intends to raise in this petition after about 16 ½ years from the date of lodging of the FIR and after about 11 years from the date the charge sheet was filed.

6. Thus, this Court is of the opinion that it would not be proper at this juncture to interfere with the trial proceeding and go into the merits of the case. Accordingly, the present petition is dismissed only on the ground that it has been preferred at such a belated stage.

Sd/-
(P. Sam Koshy)
Judge