

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 1106 of 2016**

- Riti Deshlahra W/o R.D. Deshlahra Aged About 46 Years R/o Quarter No. 123-H, Risali Sector, Bhilai, Tahsil & District Durg, Chhattisgarh.

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Home Department Of Home Affairs, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Deputy Registrar Co-Operative Societies, Durg, District Durg, Chhattisgarh.
3. Superintendent Of Police Durg, District Durg, Chhattisgarh.
4. Station House Officer Police Station Newai, District Durg, Chhattisgarh.
5. Suraj Kumar Tandon S/o Shri Bhushan Lal Tandon R/o Purani Basti, Supela, Bhilai, District Durg, Chhattisgarh.

**---- Respondents**


---

|                       |                                                                               |
|-----------------------|-------------------------------------------------------------------------------|
| For Petitioner        | Shri N.K. Shukla, Sr. Advocate along with<br>Ms. Vijay Laxmi Shroff, Advocate |
| For Respondent -State | Shri Arvind Shukla, Panel Lawyer                                              |

---

**SB: Hon'ble Shri Justice P.Sam Koshy****Order On Board****04/10/2016**

1. The present Petition under Section 482 Cr.P.C. has been filed assailing the registration of Crime No. 117/2015 dated 18.04.2015 by the Police Station Newai, District Durg making the Petitioner accused

for the offence under Section 420 IPC.

2. A brief fact of the case is that the Petitioner in the capacity of the Vice President of the Chhattisgarh Rajya Saakh Sahkari Samiti Maryadit had collected huge amount of money from the interested persons on the pretext of providing employment in the establishment and also in facilitating loan. The Complaint in this regard was lodged by one Suraj Kumar Tandon. The allegation against the Petitioner is that from the persons interested in getting employment he had taken an amount of Rs. 18.5 lakhs in cash and subsequently neither they were provided with employment nor loan. The FIR was lodged on 18.04.2015 and Crime No. 117/2015 was registered, leading to the filing of the present Cr.M.P. seeking for quashment of the same.
3. Learned Counsel for the Petitioner submits that even if the entire contents of the charge-sheet is accepted without any addition or subtraction no criminal offence against the Petitioner is made out in as much as the Petitioner was not a vice president of the society. The Petitioner is only one of the Director of the society and whatsoever amount has been collected was at the behest of the society and subsequently said society got de-recognised and registration of the said society got cancelled and has been subjected to liquidation and therefore the amount collected could not be refunded. Therefore, prays for quashment of the F.I.R.
4. Learned State Counsel however opposing the Petition submits that

the contents of the complaint made by the Suraj Kumar Tandon itself sufficiently indicates prima facie offence to have been committed. According to the State Counsel the allegation in the complaint itself is collection of huge amount of money from the local villagers on the pretext of firstly providing employment and secondly facilitating grant of loan. Neither of the two have been fulfilled by the Petitioner as well as the society which the Petitioner represented and thus prima facie there was sufficient material for the police authorities to register the case. Thus, prayed for rejection of the present Petition.

5. Considering the total facts and circumstances of the case and on perusal of the record this Court has to see whether at this stage when the charge-sheet has been filed, whether exercising the power under Section 482 CrPC this Court can conduct a roving inquiry to reach to a conclusion that the Petitioner can be convicted or not? Further, whether this Court exercising its extraordinary power can conduct a mini trial to reach to a conclusion whether an offence is made out against the Petitioner or not?
6. The Supreme Court in case of **Amit Kapoor Vs. Ramesh Chander and Another** reported in **(2012) 9 SCC 460** has clearly laid down the principle that inherent as well as revision jurisdiction should be exercised cautiously. If the jurisdiction under the Code in relation to quashing of an FIR is circumscribed by the factum and caution afore noticed, in that event, the revisional jurisdiction, particularly while

dealing with framing of a charge, has to be even more limited. At the initial stage of framing of a charge, the Court is concerned not with the proof but with a strong suspicion that the accused has committed an offence, which if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not be applied at that stage.

7. In the case of **N. Soundaram Vs. P. K. Pounraj and Another**, reported in **(2014) 10 SCC 616** the Supreme Court in paragraph 13 has categorically held that:

“13. .It is well settled by this Court in a catena of cases that the power under Section 482 CrPC has to be exercised sparingly and cautiously to prevent the abuse of process of any court and to secure the ends of justice. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should refrain from giving a prima facie decision unless there are compelling circumstances to do so. Taking the allegation and the complaint as they were, without adding or subtracting anything, if no offence was made out, only then the High Court would be justified in quashing the proceedings in the exercise of its power under Section 482 CrPC. An investigation should not be shut out at the threshold if the allegations have some substance.”

8. Again in the case of **Vinod Raghuvanshi Vs. Ajay Arora and Others** reported in **(2013) 10 SCC 581** the Supreme Court has held :

“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 inquiry, 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 CrPC."

9. In the light of the ratio laid down by the Hon'ble Supreme Court and also taking into consideration the submissions put forth by the Counsel on either side and reading of the statement of the complainant, also other statements which have been recorded, in the opinion of this Court prima facie there appears to be sufficient material available for the police authorities to register the complaint and there is no illegality and infirmity committed by the police authorities while registering the same.
10. The present Petition accordingly being devoid of merits, stands rejected.

**Sd/-**

**(P. Sam Koshy)**  
**JUDGE**