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HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No.1127 of 2016**

Sunil Kumar Ojha S/o Shri Girja Shankar Ojha Aged About 43 Years
R/o Kukripara, Subhash Nagar, Police Station Purani Basti, Raipur
District, Raipur, Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through The District Magistrate, Balodabazar,
District Balodabazar- Bhatapara, Chhattisgarh.

---- Respondent

For the Petitioner : Shri Y. C. Sharma, Advocate.
For the Respondent/ State : Shri Anil S. Pandey, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****12.10.2017**

Heard.

1. This petition has been brought under Section 482 of the Code of Criminal Procedure with a prayer to discharge the petitioner from the case registered against him. Petitioner is one of the partner of M/s. Matoshree Developers.
2. On complaint being made by one Lalit Kumar Verma, the police of Police Station Pandri, Raipur registered Crime No.39/2011 for commission of offence under Sections 420, 409, 120B of Indian Penal Code and Section 4,5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The allegations of cheating and fraud is against M. Velayuth Kumar manager to M/s. Royal Vision Care Marketing & Services Pvt. Ltd Madurai, and others persons concerned, who induced various depositors to invest amount in the

company by offering attractive schemes of huge returns. Thus Rs. 15.00 Crores were deposited by the various depositors with the said company. It is further alleged that M. Velayuth Kumar manager to M/s. Royal Vision Care Marketing & Services Pvt. Ltd Madurai, has executed the document with M/s. Matoshree Developers and this agreement mentioned payment of 5 crores to M/s. Matoshree Developers as advanced amount for purchase of land. It is also alleged that the amount of Rs. 5 crores was deposited with M/s. Matoshree Developers on the basis of fake agreement as M/s. Matoshree Developers were not owners of the land that was made subject to sale in this agreement. Hence, this deposit made by one of the accused with M/s. Matoshree Developers for the purpose of cheating creditors in which the partner of the M/s. Matoshree Developers collaborated.

3. It is submitted by learned counsel for the petitioner, that in reality some land has been transferred in favour of the company of which M. Velayuth Kumar was Director and M/s. Matoshree Developers had pure intention to perform the agreement by transfer of land, thus petitioner being a partner of the said firm had no role to play in helping out the main culprits for disposing of their collections by way of any fake agreement of sale, document are filed which show that M/s. Matoshree Developers owns and possesses lands and the agreement of sale mentions about the same land as subject matter of the agreement. Hence, prayed that prosecution of petitioner is abuse of process of law. Consequently the criminal proceedings against be quashed.
4. Learned counsel for the State has opposed the petition and the submission made in this respect.
5. It is submitted that case has been investigated and charge-sheet has been filed on the basis of the evidence collected in investigation. Prima facie case is made out against the petitioner being a partner of the M/s. Matoshree Developers, having helped the main accused in this case for disposing of collections made by the main accused persons fraudulently. In the police investigation M/s. Matoshree

Developers have not been found absolute owners any of the lands mentioned to be owned by them.

6. I have heard the learned counsel for the parties and perused all the documents placed on record.
7. No documents have been filed by the petitioner showing any transfer of land was made by M/s. Matoshree Developers to M. Velayuth Kumar. In revenue documents Khasra entries show only possession various agreement to sale made with various farmers are produced on record show that the land was yet to be transferred in favour of M/s Matoshree Developers. These agreements cannot be considered as document on title. Hence, the allegation made by the prosecution against the petitioner and other partners of M/s. Matoshree Developers, that they have collaborated with the main culprits in this case cannot be totally ruled out at this stage. For these reasons, no extra-ordinary case is made out in favor of the petitioner. Hence, this petition is dismissed at the motion stage.

Sd /-

(Rajendra Chandra Singh Samant)
Judge