

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 562 of 2017**

Amrit Dewangan S/o Ramesh Dewangan Aged About 33 Years R/o
Sikola Bhata, Mukherji Chowk, Police Station- Mohan Nagar, District
Durg, Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through Police Station- Pulgaon District Durg,
Chhattisgarh.

---- Respondent

For the Petitioner	: Shri H.S. Ahluwalia, Advocate.
For the Respondent/State	: Shri Ashish Shukla, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****16.08.2017**

1. Heard.

2. Learned counsel for the petitioner submits that the petitioner is arrayed as accused in the charge-sheet filed by the police of Police Station Pulgaon, District Durg before the Court of Judicial Magistrate First Class, Durg for the offences under Sections 408, 420, 467, 468, 471, 381 & 120-B of the Indian Penal Code. He further submits that one Sagar Arun Rao Borikar was an Accountant and Data Entry Operator in Shri Shankaracharya College of Engineering & Technology who defalcated and withdrew an amount of Rs.95,82,275/- and deposited the same in various accounts of his relatives and friends by 110 cheques. One of the cheque was deposited in the account of the petitioner on 12.7.2014 in IDBI Bank, according to which Rs.1,461/- was deposited into his account. It is submitted that the petitioner

is Proprietor of Kanhaiya Photo Framing and Lamination Shop. On several occasions, he did the job for the main accused in the case i.e. Sagar Arun Rao Borikar, connected with the work of the Institution Shri Shankaracharya College of Engineering & Technology and according to the job done, the payment was made to him for which the bills are in his possession. It is submitted that the continuation of the proceedings in criminal case shall amount to abuse of the process of law, hence, so far the criminal proceedings which are in connection with the petitioner alone may be quashed.

3. Learned State counsel submits that the case has been investigated at length and the petitioner is one of the persons who is recipient of the amount misappropriated and defalcated by the main accused in the case i.e. Sagar Arun Rao Borikar, by use of forged cheques. It is also submitted that the grounds taken by the petitioner in this petition are grounds of defence which can very well be raised before the trial Court.

4. Learned counsel for the petitioner has placed reliance on the judgments of the Apex Court in **Rajiv Thapar and Others vs. Madan Lal Kapoor** reported in **(2013) 3 SCC 330**, **Director, Central Bureau of Investigation and Others vs. Niyamavedi and Others** reported in **(1995) 3 SCC 601** and **Harshendra Kumar D. vs. Rebatilata Koley** reported in **2011 CRI.L.J. 1626**.

5. It appears from the facts of the present case that the petitioner is the recipient of the cheque drawn in his name for the petty amount of Rs.1,461/-. As the charge-sheet has already been submitted before the Court below, the

petitioner has an opportunity to appear before the Court below and make a prayer for discharge on the basis of the submission that no case is made out against him. Hence, at the present stage, no case is made out for interference by exercise of inherent jurisdiction. The petitioner shall be at liberty to approach this Court, in case he is aggrieved of any order passed by the trial Court and when no other remedy is available to him.

6. With the aforesaid direction, this petition stands disposed off.

SD/-

(Rajendra Chandra Singh Samant)
Judge