

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 300 of 2016

Smt. Hita Chawra, W/o. Shri Jaimesh Chawra, Aged About 37 Years,
Proprietor Of Chawra Trading, R/o. A-102, Karsan Status, New Timber
Market, Fafadih, Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through : Police Superintendent Of Raipur, Chhattisgarh
2. S.H.O., Police Station -Civil Line, Raipur Chhattisgarh.
3. Hindustan Unilever Ltd., Through : Harish Manwani, Chief Operation Officer,
4. Sanjeev Mehta, Chief Executive Officer,
5. Pradip Banrji, Supply Chain,
6. Kiran Naik Regional Sale Manager,
R/o. Respondent No.3-6, Hindustan Unilever Ltd., Unilever House,
B.D. Sawant Marg, Chakala, Andheri East, Mumbai 400099
7. Saroj Sahi, Sale Manager, Apartment No. 502, Building No 29, 5th Floor, Ashok Ratan, Shankar Nagar, Raipur Chhattisgarh. Permanent Address C/o. Shri Mahendra Sahi Ribandh Ward No. 16, Lakhman Nagar, Sita Mani Bihar, 343303
8. Dipak Vyas, S/o. B.P. Vyas, Regional Sales Manager, R/o Apartment No. 312, Block-I, 3rd Floor, Chaitany Tower, Mova Daldal Sivni, Raipur Chhattisgarh
9. Santosh Meshram, S/o. Shri Arjun Meshram, Computer Operator, R/o. Village -Demar, District- Dhamtari, Chhattisgarh
10. Puranik Das Bandhe, S/o. Sukalu Ram Bandhe, Computer Operator, R/o. Village Farhad, Post -Pnka, District- Rajnandgaon, Chhattisgarh

-----Respondents

For Petitioner : Mr. Hemant Gupta, Advocate

For Respondent/State No.1 & 2. : Mr. Neeraj Sharma, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

10/07/2017

Heard.

1. This petition under Article 226 of the Constitution of India has been filed with prayer to issue appropriate writ directing the respondents No.1 and 2 to register FIR against the respondent No.3 to 10 and investigate the case on the basis of complaint made by the petitioner against the respondents No.3 to 10.
2. It is submitted by the counsel for petitioner that she was offered by respondent No.6 on behalf of the respondent No.3 and 5 the rural distributorship of respondent No.3 – Hindustan Unilever Ltd. After completing some formalities on paper, on asking of the private respondents, petitioner deposited Rs.28.00 Lakhs as security deposit in the account of the company and she was given rural distributorship by the code No.134397. Respondent No.7 & 8 were introduced to the petitioner for promoting her business. Petitioner further obtained loan from bank for investment in the business. Respondent No. 6 to 8 were responsible for retail business, who made incorrect entries in the account books with intention to help respondent No.9 & 10 because of which petitioner has suffered heavy financial losses. Further the blank paper signed by the petitioner has been used to prepare a letter of resignation from distributorship of the petitioner. It is submitted that petitioner is victim of crime committed by the private respondent under Section 120-B, 406, 407, 420, 467, 468, 471, 477A of the Indian Penal Code. Petitioner lodged a complaint vide Annexure P/5 in Police Station – Civil Lines, Raipur against private respondents on the basis of which no FIR has been lodged and neither the case is being investigated. Hence this petition.

3. Counsel for the respondent No.1 and 2 submits that article 226 of Constitution of India can be invoked only in case of exceptional circumstances. In present case, there is no scope for exercising such power. It is submitted that case of the petitioner is a commercial transaction between her and respondents No.3 to 10. The investigation agency has given a report under Section 155 of Criminal Procedure Code suggesting the petitioner to file a case before the civil Court after conducting enquiry and recording statement of witnesses. It is also submitted that on going through the complaint submitted by the petitioner it does not disclose commission of offence as alleged.
4. Petitioner has placed reliance on the judgment of *Lalita Kumari Vs. Government of U.P. and Others*, reported in (2014) 2 SCC 1, in which it has been held by the Hon'ble Supreme Court that if the information given discloses commission of a cognizable offence then registration of FIR is mandatory. Further it is held that if the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not. Police Agency can not avoid its duty in registering the offence, if commission of cognizable offence is disclosed in the complaint or in the enquiry made. Reliance is also placed on the judgment passed by this Court in case No. W.P. (Cr.)47/2015, Gaurisha Mishra Vs. State of C.G. dated 04.05.2015 and the judgment passed in W.P.(Cr.) 9/2016, Bhushan Singh Rathiya Vs. State of C.G. & Ors. dated 26.08.2016.
5. As per the contents of the petition, there appears to be a dispute between the petitioner and private respondents with respect to the rural distributorship offered to her, accepted by her which has resulted

in fiasco landing her in financial losses. Petitioner has levelled allegations against private respondents for financial losses caused to her alleging that incorrect entries are made in the account book, bill book etc., which amount to forgery, falsification of records and cheating. This is mere statement made by the petitioner. The documents of ledger account submitted have a relevance under Section 34 of Evidence Act. The challenge to such entries has to be made only on the basis of cogent evidence, making a plain statement of falsification of account is not sufficient. As per reply submitted by the respondent No.1 and 2, an enquiry has been made on the basis of complaint lodged by the petitioner and the report has been submitted under Section 155 of Cr.P.C. to the effect that no cognizable offence is made out.

6. Under these circumstances only on asking of the petitioner, the constitutional power under Article 226 of Constitution of India can not be exercised. Hence this petition is devoid of merits and it is dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram