

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.890 of 2017**

- Madhurima Shukla, D/o. Shri NP Shukla, Aged 41 years, Occupation Business, R/o. Aaditya Heights, 301, B-Block, Raipur (CG)

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

- State Of Chhattisgarh Through Police Station EOW/ACB, Raipur, District Raipur, Chhattisgarh.

---- **Respondent**

For Revisioner/applicant : Shri Kishore Bhaduri, Advocate
 For respondent/State : Shri Anil Pandey, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****14.11.2017**

1. This is an application under Section 482 of the Code of Criminal Procedure, for quashing the FIR No.17/2015 registered at Police Station, Economic Offence Wing, Raipur for the offence under Section 13(1)(e) read with 13(2) of the Prevention of Corruption Act, 1988 (for short 'the Act').

2. As per the petitioner, the Economic Offence Wing/Anti Corruption Bureau registered Crime No.09/2015 against one Shivhsnagar Bhatt and other 18 accused persons including the present petitioner for the offence under Section 13(1)D read with 13(2) of the Prevention of Corruption Act, 1988 and under Section 420, 409, 120B and 109 of the Indian Penal Code and raid was conducted and cash of Rs.13,52,000/- was seized along with jewellery from the house of the petitioner but ultimately it is found

that there is no evidence against the petitioner to connect with said offence. Again the same wing registered FIR No.17/2015 for the commission of offence under Section 13(1)(e) read with 13(2) of the Act against the petitioner which is not permissible under the law. Therefore, FIR bearing Crime No.17/2015 may be quashed and also subsequent proceedings against the petitioner may also be dropped.

3. Core issue for consideration of this application is whether the FIR bearing Crime No.17/2015 is the second FIR for the commission of same offence. Learned counsel for the petitioner placed reliance on 2013 (6) SCC 384 TT Antony Vs. State of Kerala, AIR (SC) 2013 (0) 3794 Amitabh Anilchandra Shah vs. CBI, 2017 Criminal Law Journal, Vijay Chandra and Another Vs. State of Gujarat, CRLJ 1997(0) 813 Ashwini Kumar Vs. State of Rajasthan.

4. From perusal of Crime No.09/2015 and the documents of the said crime number, it appears that it is registered against the persons who were working under Civil Supply Department of Government of Chhattisgarh for breach of trust, cheating, conspiracy and for taking illegal gratification. As the present petitioner has not participated in cheating or breach of trust or taking illegal gratification the concerned authorities concluded that no corroborative evidence is available against the present petitioner. Crime No.17/2015 is registered under Section 13(1)(e)

read with 13(2) of the Act and for conspiracy and abettment of the same.

5. Section 13(e) of the Act reads as under:

“13. Criminal misconduct by a public servant – (1)
A public servant is said to commit the offence of criminal misconduct,-

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xxxx

xxxx

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation – For the purpose of this Section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.”

6. As per the provisions of Section 13(e) of the Act any person or on his behalf is in possession of the property for which he cannot satisfactorily account of pecuniary resources the same is disproportionate property. In the present case, number of documents were seized connecting the present petitioner with one officer of the civil Supply Department that the petitioner has acquired property worth Rs.1,60,78,090/- on behalf of Shiv Shankar Bhatt and there is ample documentary evidence against the present petitioner. Crime No.17/15 is not connected with any breach of trust, cheating or illegal gratification by public servant and it was entirely different issue. When substance of Crime No.09/15 is different from substance of Crime No.17/15, it cannot be said that second FIR has been lodged for the same offence. It

appears that Crime No.17/15 is registered for entirely different offence and the FIR is the first FIR for the Offence under Section 13(1)(e) read with Section 13(2) of the Act and the same cannot be quashed by this court invoking the inherent jurisdiction.

7. The petition fails and is accordingly dismissed. Consequently interim applications (IA No.01/17 & 02/17) stand dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE