

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1236 of 2017**

Sudhir Patel S/o Singeshwar Patel, Aged About 49 Years R/o Village
Sirsaviran, Police Station Lalganj, District Vaishali Bihar Presently R/o
H I G - 9, Chiranjeev Das Nagar, Chakardhar Nagar, District Raigarh
Chhattisgarh., Chhattisgarh --- **Petitioner**

Versus

State of Chhattisgarh through the District Magistrate , Raigarh.,
Chhattisgarh --- **Respondent**

For the applicant	:	Mr. J. K. Saxena, Advocate.
For the Respondent	:	Mr. Adhiraj Surana, Advocate

CRMP No. 81 of 2018

Jeetambar Patel S/o Late Bhagirathi Patel, Aged About 46 Years
Caste Aghariya Occupation Civil Contractor R/o Risora, Police Station
Sariya Tahsil Baramkela District Raigarh Chhattisgarh , Chhattisgarh
--- **Petitioner**

Versus

State of Chhattisgarh through Station House Officer, Police Station
Chakradhar Nagar, District Raigarh Chhattisgarh , Chhattisgarh ---
Respondent

For the applicant	:	Mr. Roop Naik, Advocate.
For the Respondent	:	Mr. Adhiraj Surana, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

06.02.2018

1. Since both these petitions are relating to Crime No.179 of 2016 registered at Police Station Chakradharnagar, they are being decided by this common order. Petitioner Jeetambar Patel has challenged the final report/ Charge sheet filed by the respondent before the Addl. Sessions judge, Raipur.

2. Learned counsel for the petitioners would submit that on the basis of malafide, the prosecution has been launched against the petitioners u/s 420, 467, 468, 471, 120-B of IPC and sections 13(1) and 13(2)(d) of the Prevention of Corruption Act. It is submitted that both the petitioners are contractors and pursuant to an advertisement of Notice Inviting Tenders published in newspaper, they participated in tender process and being the lowest bidders, their works were accepted and accordingly they executed the work. Thereafter, the work was physically verified and the completion certificate was given. It was found that the quality of work was also not in dispute and accordingly the payments were made. It is further submitted that thereafter a complaint was made by one RTI activist wherein the allegations have been levelled against the present petitioners. The allegations are that the publication which was made in the newspaper was forged. However, the statements of witnesses would show that the paper was displayed on the notice board of the office and accordingly, the petitioners have participated in such process pursuant to the publication made and therefore, unless it is proved that malafide is on the part of the petitioners, they cannot be inculpated. Learned counsels relied on the case of ***1992 Supp(1) SCC 335 (State of Haryana and others Vs. Bhajanlal)*** and would submit that in order to sustain the cases, the prosecution must prove that there was malafide on the part of petitioners and the alleged nexus was there between the petitioners and others officers.
3. Per contra, learned State Counsel opposes the same and would submit that after enquiry it was found that whatever

the publications which were shown to have been made in the newspaper are forged publications and in fact no publication was made in the newspaper and the forged endorsement of sending the notice inviting tenders for publication was prepared and forged endorsement of the signature was made that of Office of Public Relations, Raipur, which is situated at Raipur other than Raigarh. Therefore, it would show that the petitioners have direct nexus with the other accused officers who have been charge sheeted.

4. Perused the documents filed along-with the petitions. The documents would go to show that the report of one handwriting expert is placed on record which shows the fact that the signature sending letter for publication and the endorsement of receipt of such notice on behalf of Public Relation Officer the signatures are one and the same. So prima facie it shows that the department at Raigarh which invited tender, then to send it for publication to other department i.e., public Relation Office to publish the tender in paper were one and the same. It is further case of prosecution that in the preliminary enquiry it was revealed that no publication of the tender was ever made in the newspaper and all false documents including the copies of the newspaper were prepared. It is further alleged that in pursuance of publication of such notice inviting tender, the present petitioners as also the other contractors participated in such tender process and the petitioners were granted the work order.
5. Therefore, if the publication of the tender itself was forged then it naturally creates a doubt that how the petitioners

came to know about the particular work to be carried out at certain place. Prima facie it shows that unless and until the nexus is there between the officers of the department and the petitioners who have done the job the work could not have been allotted. The necessary inference prima facie shows that to provide job to the particular contractors of choice the false documents of Notice Inviting Tender were prepared. The fact that the tender process was not published in paper though was said to have been displayed in the notice board of the office do not dilute the fact of fraud. The bona-fide act is a matter of fact to be established before the Court by the petitioners.

6. The case involves allegations of forgery and fabrication of documents and utilization of fabricated documents. Thus taking into consideration the overall aspects it would show that the activity involved is akin to the financial and academic fraud or misdemeanor. Looking to the seriousness of the allegations, I do not find any reason to quash th FIR and the charges sheet. Accordingly, these petitions have no merit and are dismissed.

**Sd/-
GOUTAM BHADURI
JUDGE**