

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 1442 of 2017**

- Ritendra Kumar Solanki S/o Late C.S. Solanki, Aged About 57 Years R/o M I G- C/330, Padhmanabhpur, Durg, District Durg, Chhattisgarh, Chhattisgarh

**---- Petitioner**

**Versus**

1. Central Beaureau Of Investigation Through Its Superintendent Of Police, Bhilai, District Durg, Chhattisgarh, Chhattisgarh
2. Kantilal Jobanputra S/o Jayantilal Jobanputra, Aged About 65 Years R/o Mangal Smriti, Bajpai Ground, Behind Pratap Talkies, Bilaspur, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Nilesh Jobanputra S/o Kantilal Jobanputra, Aged About 45 Years R/o Mangal Smriti, Bajpai Ground, Behind Pratap Talkies, Bilaspur, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. A.K.Chatarji Unknown To Petitioner R/o Amba Apartment, 1st Floor, Flat No. A/204, Tikrapara, Bilaspur, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. S.K.Shukla, The Then Dy. C E E/ Construction/ Raipur S E C R, Bilaspur, Presently Posted At Dy. C E E, Mumbai H.Q. Central Railway, Mumbai Maharastra, District : Mumbai, Maharashtra

**---- Respondents**

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| For Petitioner | : | Mr. Siddharth Rathod, Advocate. |
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| For respondent No.1 | : | Mr. Kishore Bhaduri with Mr. Pawan Kesharwani, Advocates. |
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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**03/05/2018**

1. Heard.
2. Learned counsel for the petitioner submits that a complaint has been filed by him against applicants No.2 to 5 before respondent No.1 making various allegations inter alia that respondent No.2 to 5 have cheated and caused huge financial loss to the SECL, but respondent No.1 has not taken any action so far.

Hence, the case be admitted.

3. In reply, it is submitted by respondent No.1 that the complaint dated 22.2.2016 made by petitioner has been received and on which a discrete inquiry has been conducted and it was found that loss of approximately Rs.16.37 lakhs has been caused to the SECL and not loss of 1 crore as alleged in the complaint made by the petitioner.
4. Reliance has been placed on the judgment in ***State of West Bengal & others Vs. Committee of protection of Democratic Rights West Bengal & other***, reported in **(2010) 3 SCC 571** wherein the Supreme Court has held thus;-

“.....This extra ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigations or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. It is submitted that the complaint made by petitioner is not of such nature.....”
5. Perused all the documents filed along with the petition.
6. Learned counsel for the petitioner has placed reliance on the order dated 29.11.2016 passed in Writ Appeal No.228/2016. Relying on Lalita Kumari Vs. Govt. of Uttar Pradesh & Others in (2014) 2 SCC 1, in which it has been held that recording of FIR is mandatory once the information given to the Police Officials orally or written which discloses the commission of cognizable offence. The complaint may be false or may be true but that has to be registered as FIR and should be investigated and on the basis of such investigation either final report or a charge-sheet may be filed.
7. Perused the copy of complaint filed as **Annexure P-8**. All the contents of this complaint are in the form of allegation and oral statements. As per allegations, South East Central Railway, who has suffered loss, has not been made a party in this case and if such a loss has occurred then real aggrieved person in this case should have been SECL and not this applicant who appears to be a third

person. Hence, this petitioner who has come forward as an aggrieved person may have his allegations, but unless such alleged commission of offence and alleged loss caused to SECL are acknowledged by the SECL itself, the criminal process cannot move ahead. Apart from that, the discrete inquiry has been conducted by CBI on the given complaint and the enquiry report has also been sent to the Railway Board with the recommendation that the loss caused to the Railways may be examined firstly by Railway Board at their end and thereafter action may be proposed, if necessary.

8. After going through the entire material present, it appears that Railways is the main aggrieved person and the complaint made by this petitioner has to be examined by Railways itself and if necessary, the action, departmental or criminal, may be proposed by the Railway itself. Hence, under these circumstances only on the basis of the allegations made and not acknowledged by the Railways, it cannot be said that circumstances are present in accordance with the directions in Lalita Kumari(supra).
9. After due consideration, I am of this view that this petition does not deserve to be admitted.
10. Accordingly, the petition stands disposed off at the admission stage.

Sd/-

**(Rajendra Chandra Singh Samant)**

Judge

Nisha