

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 547 of 2020

Dharmendra Kumar @ Ajeet Singh S/o Shri Chandrakant Prasad Aged About 35 Years R/o Mirchak, Tehsil Mosma, Police Station Varisaleeganj (Bihar), Presently Residing At Shanker Vihar, Gali No. 03, House No. 299, Khoda Colony, Ghaziabad, District Ghaziabad, Uttar Pradesh, (On Bail), District : Ghaziabad, Uttar Pradesh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Office Tendukona, Police Station Tendukona, District Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Surfaraj Khan, Advocate
For Respondent/State	: Mr. Anand Verma, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16-07-2020

Heard.

1. This revision petition has been filed under section 397(1) of the Cr.P.C. against the order dated 13.12.2019, by which the trial Court has framed the charges against the applicant for the commission of offences under Sections 420, 467, 468 and 471 of the Indian Penal Code and Section 66(D) of the Information Technology Act.
2. It is submitted by counsel for the applicant that according to the facts of the case, complainant – Supendra Diwan was in need of CSPID i.e. a virtual smart card for which he made a contact with the company website i.e. www.multibankcspid.com through email. It is stated in the complaint that this applicant made a contact with the complainant and then it was at the instance of the applicant, the complainant has made payment of Rs.3,58,424/- in various installments in the bank account number provided by the applicant. The complainant did not want to

pursue his request for issuance of CSPID, therefore, he made a request of refund from the applicant and since the applicant was unable to make timely refund, a false FIR has been lodged. It is further submitted that in fact it is a civil dispute between the applicant and the complainant which is reflected from the written complaint given by the complainant itself, therefore, no ingredients are present regarding the commission of offences under Sections 420, 467, 468 and 471 of the IPC and Section 66(D) of the Information Technology Act, 2000. Hence, it is prayed that the impugned order be interfered with and the applicant be discharged from all the offences against him.

3. Learned Counsel appearing for the respondent/ State opposes the submissions so made and submits that, according to the material present in the charge-sheet, the evidence is sufficient to make out *prima facie* case and on that basis the charges have been framed against the applicant for the commission of offences mentioned herein-above. It is also submitted that the applicant had himself made a statement on memorandum making admission of commission of offences, therefore, no case is made out for discharge. An objection is also raised that the applicant should have first preferred this revision before the Sessions Court and instead of that this revision is filed before this High Court which is not maintainable.
4. In reply, it is submitted by learned counsel for the applicant that the revisional jurisdiction is concurrent under Section 397(1) of the Cr.PC. with the High Court as well as with the Sessions Court, therefore, the applicant has right to make a choice and he has made the choice for filing a revision before this Court.
5. Reliance has been placed on the judgment of the Supreme Court in the case of **Central Bureau of Investigation vs. State of Gujarat** reported

in **(2007) 6 SCC 156**. It is submitted that in the said case the Supreme Court has held that there is no bar for the High Court to entertain a revision petition directly, therefore, the revision is maintainable. It is also submitted that the material in the charge-sheet do not make out any offence against this applicant, therefore, he is entitled for discharge from charges.

6. Heard both counsel for the parties and perused the material available on record.
7. The objection raised by the State counsel regarding the maintainability of this revision petition is first taken into consideration. In the case of **State of Madhya Pradesh vs. Khizar Mohammad and Ors.** reported in **1996 (0) MPLJ 1007**, the Division Bench of the Madhya Pradesh High Court has held that jurisdiction under Section 397(1) of Cr.P.C. is concurrent confer Sessions Court and High Court both. High Court again insisted that the parties should approach the Sessions Court before invoking a revisional power of the High Court. In the case of **CBI vs. State of Gujarat** (supra), the Supreme Court has also held that there is no bar of the High Court to entertain the revision petition directly., therefore, the objection raised by the State counsel is not found to be sustainable.
8. The complainant has filed a written complaint stating that for obtaining CSPID for his job in Choice Center, he made a contact with the website i.e. www.multibankcspid.com and in response it was the applicant who made a contact with the complainant. Then, at his instance the complainant had made various deposits which are in total Rs.3,58,424/-. It is alleged that when the complainant came to know that the website www.multibankcspid.com is a forged website, he asked for refund and the complainant has refused to make any refund.

9. In the investigation, the complainant and the witnesses of the vicinity have made a statement regarding the fraud committed against the complainant. One witness, namely, Prince Kishan has been examined, who has stated that he has the job of providing on-line services. It was on the request of one Manohar Rawat he prepared the website styled as www.multibankcspid.com and later on, he came to know that this website was used for committing fraud.
10. The HDFC Bank has provided information to the Investigating Officer with the account number in which the complainant has made deposits stands in the name of one Manohar Rawat.
11. Multi-bank groups are the financial institutions, which are licensed and have recognition for doing such business, which provide for mobile-app trading platforms. CSPID on the other hand is provided by Banking Institutions only. The website www.multibankcspid.com is a legal and authorized website is needed to be established for which the applicants needs to defend himself in trial.
12. On perusal of all the material present in the charge-sheet, I am of this view that the applicant would need to establish that the website www.multibankcspid.com was valid, licensed and recognized website and the amount received in the account of one Manohar Rawat was validly received and that can be done only in the trial, therefore, at present it cannot be said that the transaction was valid and the complainant has the only remedy available of filing a civil suit. Hence, I am of this view that no error has been committed by the trial Court in framing the charges against this applicant.
13. Accordingly, this revision petition is dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge