

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 2147 of 2019**

- Naresh Katariya S/o Late Shri Girdharilalji Katariya Aged About 36 Years R/o 101, Classic Home, Riddhi Siddhi Colony Indore, District Indore, Madhya Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Rajendra Nagar, Raipur District Raipur Chhattisgarh

---- Respondent

For Applicant	:	Mr. Y.C. Sharma, Advocate.
For Respondent/State	:	Mr. Alok Bakshi, Additional A.G.
For Objector	:	Mr. Bhaskar Payashi, Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****01/07/2020**

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.402/2019 registered at police station–Rajendra Nagar Raipur, District-Raipur (C.G.) for alleged commission of offence under Section 420 of I.P.C.

2. Prosecution case is that complainant, on the basis of quotation given by the applicant for supply of particular machine for Cath Lab entered into agreement for purchase for which, Rs.87 lacs were paid by the complainant to the applicant. It is alleged that the applicant-accused, instead of sending the machine for which quotation was accepted, sent scrap of another machine without sufficient number of attachments as per the quotation and in this manner cheated the complainant.

3. Learned counsel for the applicant would argue that no case is made out inasmuch as present is a case of dispute arising out of sale and purchase of goods. He would submit that the complainant's allegation that the applicant sent another machine and not the one, for which, he had given quotation and induced by which complainant entered into agreement and paid him amount, is factually incorrect. Referring to various documents filed before this Court including documents filed today, it is argued that the applicant has, in fact,

supplied the same Cath Lab machine, for which, he had given quotation and accepted by the complainant. He would next submit that there is no *mense rea*. Though the applicant has received Rs.87 lacs, later on, about Rs.35 lacs being refunded to the complainant and disputes could be settled through negotiations but in order to create pressure on the applicant, the complainant has lodged report even though no criminal case is made out. It is submitted that it is not a case where nothing was supplied. The dispute is with regard to the quality of the article supplied. The machine sent by the applicant were de-sealed and opened without informing the applicant and in the absence of any representative of the applicant, therefore, the allegations which are levelled are factually incorrect.

4. On the other hand, learned counsel for the State and Objector oppose and submit that the applicant cheated the complainant in the manner that in order to obtain supply order, he falsely quoted to the complainant that he would be supplying preowned Philips Allura Xper FD-10 Ceiling Mounted Cath Lab and other accessories which is the modern machine used in Cath Lab. Having so dishonestly induced the complainant to enter into agreement and partly huge amount of Rs.87 lacs, the applicant did not send the same machine but sent scrap of an old model of Cath Lab machine known as Philips Fusion Alpha model that too without attached accessories for which even the production stopped since last 10 years. It is also submitted that upon complaint being made, in the presence of police, a technical inspection was also conducted by a technical expert and it was found that it is inferior and outdated scrap of old machine, which was supplied to the complainant and not the one, for which, quotation was given and thereafter huge amount was received.

5. Prima facie, from the quotation of the applicant, placed on record compared with the technical inspection report of the technical person, it is found that the applicant supplied some other machine and not the one, for which, quotation was sent. Therefore, there is a prima facie case of dishonest inducement, more over, the complainant allegations are that even the machine which was sent was more in the nature of scrap, therefore, no case is made out for grant of anticipatory bail.

6. The anticipatory bail application is accordingly rejected.

Sd/-

**(Manindra Mohan Shrivastava)
Judge**