

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 36 of 2020

- Gaurishankar Patel S/o Sundar Lal Patel, Aged About 33 Years, R/o Tarkela, Choiki-Jutemil, Taluka Raigarh, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through Police Station City Kotwali Raigarh, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

For Petitioner – Shri Rajeev Kumar Dubey, Advocate.

For State/Non-applicant – Shri D.P. Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-02-2021

Heard.

1. This petition has been brought against the order dated 16-12-2019 passed by the Special Judge under the Chhattisgarh Protection of Depositor Interest (In Financial Establishment) Act, 2005, Raigarh dismissing the application of the applicant filed under Section 306 of the Cr.P.C.

2. It is submitted by learned counsel for the applicant that the applicant is being prosecuted in Criminal Case No.1/2018 for commission of offences under Section 420/120-B, 409/120B of IPC and Section 10 of Chattisgarh Protection of Depositor Interest (In Financial Establishment) Act, 2005.

It is submitted, that the status of the applicant in the financial company was that of only an agent. The director of the company had been Sitaram Kushwaha and others. Copy of Registration Certificate of Ambedkar Real Estate & Dairies Limited is produced by Annexure- A-3 in which the name of applicant is not reflected, hence, he cannot be said to be a main accused in this case. In a similar case which has been registered against the applicant which is registered as Criminal Case No.2/2016 the application under Section 306

of the Cr.P.C. has been allowed by the same Court, therefore, status of the applicant is clearly not that one of the main accused in the case. Hence, his application deserves to be allowed by the trial Court. Learned trial Court has committed error in passing the impugned order. Therefore, it is prayed that the impugned order be set aside and the prayer of the applicant be allowed.

3. Considered on the submission.

4. On perusal of the copy of order dated 16-12-2019 passed in Criminal Case No.2/2016, it is found that the status of the applicant was not represented as being a director of the company. According to the submission made by the applicant side there is material in the charge sheet, that the applicant was not one of the founder directors of the company. Therefore, he has value of being an approver in the case before the trial Court.

5. The impugned order is a short order in which learned trial Court has accepted the objection made by the prosecution side and dismissed the application, whereas, the submission of the applicant needs examination. Hence, I am of this view that the impugned order was not properly passed. This Court refrains from commenting on legality of the order, however, on the ground of propriety and correctness of the impugned order the same is liable to be set aside. Accordingly, this revision petition is allowed and the impugned order is set aside. The application under Section 306 of the Cr.P.C. is restored. Learned trial Court is directed to consider on this application again after affording proper opportunity to the applicant side to make submissions about his fitness for being an approver in the case and then pass order in accordance with law.

6. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge