

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-40165-2022 (O&M)
Date of decision: 28.10.2022**

Prateek Nepalia

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Ritesh Aggarwal, Advocate and
Mr. Chandan Singh, Advocate for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed the present petition for quashing of the charge-sheet dated 20.10.2021 and FIR No. 17 dated 10.01.2020 (Annexure P-4), registered under Sections 406, 420, 467, 468, 471 IPC read with Section 120-B IPC, at Police Station DLF Gurugram.

Learned senior counsel for the petitioner submits that though 10 other FIRs have been registered against the petitioner, yet he was neither named in the FIR, nor any role has been attributed to him; that the petitioner has also no concern with the commission of alleged offence; that he has no share in the company; that the petitioner was one of the Directors in the Company, namely, Uni Assist Edutech Pvt. Ltd., being an 'Education Expert' and had resigned from the Board of Management of the Company in the year

2019; that as per the bank statements, which are on record, no amount has ever been received by the petitioner; that the Court had granted 14 days remand of the petitioner and he remained in custody and that the investigation has been completed.

Learned senior counsel further submits that co-accused Kaushik Bose had earlier approached this Court seeking similar relief vide CRM-M-30221-2022, wherein this Court vide order dated 19.07.2022 had directed the trial Court to adjourn the case beyond the date fixed by this Court in the said case.

I have heard the learned senior counsel for the petitioner and have also gone through the paper-book.

Perusal of record would reveal that the petitioner surrendered in another FIR No. 16 dated 10.01.2020 registered at Police Station DLF Sector-29, Gurugram, on 14.09.2021 and was arrested in the present FIR on 16.09.2021; that in his disclosure statement, he has stated that in November-2017, he along with Kaushik Bose and Ranadeep Ghosal, had formed a Company in the name of Uniglobal Edutech Pvt. Ltd., wherein he and Kaushik Bose were the Directors and Ranadeep Ghosal became Executive Director; that in the year 2018, they formed another Company i.e. Uni Assist Edutech Pvt. Ltd. along with Subroto Sen, Sandeepan Kaviraj and Ashima Malhotra used to conduct the affairs of the company; that in the year 2019, the Company was opened at Unit No. 103-104 Vipul Agora MG Road Gurugram and the name of the company was changed to Uni Fact Pvt. Ltd. and that they fraudulently made Vipin Puri transfer approx. Rs. 3,79,426/- in

the account of the company for sending him to Germany for the study purposes and that he did not know about the record register of the company and that it was also admitted by him that he was a Director in the Company holding 7.5% share.

Earlier also, the petitioner had approached this Court by way of CRM-M-39176-2022 for quashing of the chargesheet dated 30.10.2021 arising out of FIR No. 188 dated 23.05.2020 under Sections 406, 420, 120-B IPC and same was dismissed by this Court vide order dated 01.09.2022.

Even otherwise, without evidence and material on record, it is difficult to determine from the petition whether any offence is made out or not. Thus, continuation of prosecution will definitely can draw a logical conclusion by meticulously examining the evidence.

Hon'ble Supreme Court in case titled as State of Rajasthan Vs. Fatehkaran Mehdu, **2017(2) R.C.R. (Criminal) page 1** has held as under:-

“29. The Court in para 27 has recorded its conclusion and laid down principles to be considered for exercise of jurisdiction under Section 397 particularly in context of quashing of charge framed under Section 228 Cr. P. C. Para 27, 27(1), (2), (3), (9), (13) are extracted as follows:

"27. Having discussed the scope of jurisdiction under these two provisions, i.e., Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out

some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:

27.1) Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

27.2) The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3) The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.9) Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.13) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly

satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.”

In view of the above and the fact that the challan has been presented, no case is made out to grant the relief as prayed for.

The petition is dismissed.

28.10.2022
Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No