

CRM-M-41502-2022 (O&M)

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

Sr. No. 112**CRM-M-41502-2022 (O&M)****Reserved on : 14.03.2023****Pronounced on: 24.03.2023**

Prateek Nepalia

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. B.S. Sidhu, Sr. Advocate with
Mr. Divij Datt, Advocate, for the petitioner.

SUDHIR MITTAL, J.

A complaint dated 14.05.2019 was received from one Amarnath Khudaniya, whereupon, FIR No.300 dated 25.05.2019 was registered at Police Station DLF, Sector-29, Gurugram, under Sections 406 & 420 IPC read with Section 120-B IPC. On completion of investigation, a final report dated 17.04.2022 under Section 173 (2) Cr.P.C. was submitted before the competent authority. The present petition has been filed for quashing of the FIR as well as the final report.

A perusal of the final report aforementioned reveals that the daughter of the complainant, namely, Kritika was doing a course in forensic science in Jain University, Bangalore. She was, however, interested in going abroad. Her friend Saurav Vishwas told the complainant that a consultancy named as Uni Assist existed in Gurugram which specialized in sending students to Germany and that education is

free in the said country. Thereafter, he met some officials of the said consultancy and was told that a total of Rs.3.85 lacs would be charged and a loan would be arranged for expenses in Germany. Money was paid and an offer letter from a German University was shown. On searching the internet, Kritika realized that there was no course in forensic science in the said University. Again money was demanded for various purposes and for doing a course in the German language, but Kritika was not sent to Germany.

The final report under Section 173 (2) Cr.P.C. indicates that evidence has been collected regarding payment of Rs.4.2 lacs by the complainant out of which a sum of Rs.2 lacs was returned and Rs.2.2 lacs was outstanding. The evidence also shows that the petitioner was a Director in the aforestated consultancy and that all the Directors had connived with each other to defraud innocent citizens. The final report was presented against the petitioner, one Kaushik Bose and one Ashima Malhotra and that investigation against the other accused was pending.

Learned senior counsel for the petitioner has submitted that no specific allegation has been made against the petitioner in the FIR. The petitioner had resigned from the post of Director on 10.09.2019 and the resignation had been accepted by the Board of Directors vide Resolution dated 16.09.2019. Thus, it is evident that inclusion of the name of the petitioner as an accused is an abuse and misuse of the process of the criminal Court. A quashing petition filed by co-accused, namely, Kaushik Bose viz. CRM-M-30203-2022 titled as Kaushik Bose Vs. State of Haryana has been entertained and stay has been granted vide order

dated 28.07.2022. Thus, the FIR as well as the final report deserves to be quashed.

It is true that in the FIR, no specific role has been attributed to the petitioner, although, his name has been mentioned in the capacity of a Director. However, that in itself is not conclusive. The final report under Section 173 (2) Cr.P.C. clearly recites that all the Directors of the consultancy were equally responsible for duping the complainant and his daughter. For this reason, it cannot be said that registration of the FIR is an abuse and misuse of the process of the criminal Court. The fact that the petitioner has resigned w.e.f. 10.09.2019 is also not helpful because the FIR is dated 25.05.2019. The veracity of the resignation letter and its acceptance by the Board of Directors also cannot be accepted because record of the Registrar of Companies has not been annexed. On the contrary, the final report shows that as per the record of the Registrar of the Companies the petitioner is a Director.

The submission made on the basis of order dated 28.07.2022 passed in CRM-M-30203-2022 also cannot be accepted because in that case, quashing has been sought of FIR No.188 dated 23.05.2020 which is not the instant FIR. Moreover, factum of resignation of the petitioner therein on 10.09.2019 weighed with the Court because the same was prior to the date of registration of the FIR. This is not the situation in the present case. The allegation in the present FIR pertains to late 2018 and early 2019, when admittedly, the petitioner was a Director.

In view of the above, the FIR and final report cannot be quashed.

The petition is without merit and is dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

(SUDHIR MITTAL)
JUDGE

24.03.2023
Ramandeep Singh

Whether speaking / reasoned	Yes
Whether Reportable	Yes