**NAFR**

# HIGH COURT OF CHHATTISGARH, BILASPUR

**CRMP No. 578 of 2023**

1 - Avinash Kumar Chandravanshi S/o Shri Sewa Ram Chandravanshi Aged About 47 Years R/o B-01 Kuber Apartment Shanker Nagar, Opposite Aarogya Hospital, Police Station Shankar Nagar Raipur, District : Raipur, Chhattisgarh

**---- Petitioner**

**Versus**

1 - State Of Chhattisgarh, through Secretary, Home Department, Mahanadi Bhavan, Mantralaya, Capital Complex Naya Raipur, District:-Raipur,Chhattisgarh

2 - District Magistrate, District Jashpur, District : Jashpur, Chhattisgarh

3 - Station House Officer, Police Station- Pathalgaon, District : Jashpur (CG)

4 - Dev Kumar Yadav, S/o. Purno Ram Yadav, Resident Of Village - Mudekela, P.S. Pathalgaon, District - Jashpur, Chhattisgarh.

**---- Respondents**

(Cause title taken from Case Information System)

| | | |
|---|---|---|
| For Petitioner | - | Mr. Prakash Tiwari, Advocate. |
| For Respondent/ State | - | Mr. Shashank Thakur, Dy. A.G. |
| For Respondent No. 4 | - | Mr. Ajit Kumar Yadav, Advocate |

**Division Bench:**
**Hon'ble Shri Ramesh Sinha, Chief Justice**
**Hon'ble Ravindra Kumar Agrawal, Judge**
**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**09.07.2024**

**1.** Heard Mr. Prakash Tiwari, learned counsel for the petitioner as well as Mr. Shashank Thakur, Dy. Advocate General, appearing for the

State/ respondent Nos. 1 to 3 and Mr. Ajit Kumar Yadav, learned counsel for the Respondent No. 4.

**2.** The present CrMP under Section 482 of Cr.P.C., 1973 has been filed by the petitioner for quashing of the FIR dated 25.03.2019 registered as Crime No. 0042/2019 at Police Station Pathalgaon, Jashpur and charge-sheet dated 22.01.2022 for the offence under Section 420, 120 (B) of IPC and Section 9, 10 of The Chhattisgarh Protection of Depositors Interest Act, 2005, which has been lodged by Respondent No. 4.

**3.** Learned counsel for the petitioner would submit that on 25.03.2019, Mr. Devkumar Yadav/ Respondent No. 4 lodged an FIR bearing Crime No. 0042/2019 under Section 420, 120 (B) of IPC and Section 9, 10 of The Chhattisgarh Protection of Depositors Interest Act, 2005 against the Director/ Proprietor of the Company known as Gurukripa Infra Reality India Limited. As shown form the FIR, it clearly appears that, Gurpreet Singh is the Director/ Proprietor of the Company and the present petitioner namely Avinash Kumar Chandravanshi has also served as one of the Director of the Gurukripa Infra Reality India Limited. Therefore, the concerning Police has arrested the present petitioner for the alleged crime. He further submitted that the date of offence is reflected during the period of 01.01.2011 to 30.04.2014. However, the present petitioner joined the Company as a Director on 20.07.2009 and later resigned from the Company on 01.08.2010 and careful perusal of the entire charge-sheet and FIR, it also appears that the incident took place during the period of 01.01.2011 to 30.04.2014 and the aforesaid period, the present petitioner was not even a Director of the said Company. Therefore the present

petitioner is filed this petition and prays for quashing of the FIR dated 25.03.2019 as well as chage-sheet dated 22.01.2022.

**4.** The learned counsel for the respondent No. 4, submits that on the pretext of double amount, the accused persons got deposited the huge amount from the respondent and other depositors in the name of Gurukripa Infra Reality India Limited and issued bond papers to the depositors, but later on the accused persons have closed the said Company and not returned single penny to the depositors including the private respondent. The present petitioner namely Avinash Kumar Chandravanshi was also the Director of the said Company, he is also involved in the commission of crime. He further submits that the document filed by the petitioner in support of his case, is not an authentic document and therefore the same cannot be given importance for quashing the criminal proceeding against the petitioner. Therefore, the present Cr.M.P. is liable to be dismissed.

**5.** Learned State counsel would submit that it is evident that, the Police has registered the FIR on the basis of the written complaint made by the complainant on disclosing commission of cognizable offence committed by the petitioner being the director of the aforesaid Company. The Police has fairly conducted the investigation on the complaint made by the complainant and once the FIR has been registered, it has to be investigated and taken to its logical end. Thus, at this stage, no interference is warranted in view of the judgment of the Apex Court passed in Criminal Appeal No. 330 of 2021 **(M/s Neeharika Infrastructure Pvt. Ltd. Vs. The State of**

**Maharashtra & others)** and therefore, the present petition is liable to be dismissed.

**6.** We have heard learned counsel for the parties and perused the document annexed with the petition.

**7.** The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases and Courts should not ordinarily interfere with the investigations of cognizable offences. However, where the allegations made in the FIR, or the complaint even if taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the FIR or the charge-sheet may be quashed in exercise of powers under Article 226 or inherent powers under Section 482 of the Cr.P.C.

**8.** In **Neeharika Infrastructure Pvt. Ltd.** (supra), the Apex Court has observed that the power of quashing should be exercised sparingly with circumspection in the rarest of rare cases. While examining an F.I.R./complaint, quashing of which is sought, the Court cannot inquire about the reliability, genuineness, or otherwise of the allegations made in the F.I.R./complaint. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the Court to be cautious. The Apex Court has emphasized that though the Court has the power to quash the F.I.R. in suitable cases, the Court, when it exercises power under Section 482 Cr.P.C., only has to consider whether or not the allegations of F.I.R. disclose the

commission of a cognizable offence and is not required to consider the case on merit.

**9.** After having gone through the allegations made in the impugned FIR and in the light of judgment passed by the Apex Court in ***Neeharika Infrastructure Pvt. Ltd***. (supra), it cannot be said that no offence whatsoever is disclosed from the same. The charge-sheet has been submitted against the petitioner and the co-accused persons are also facing trial and in view of the same, we do not find any good ground for interference.

**10.** Accordingly, the instant petition is rejected.

**Sd/-**
**(Ravindra Kumar Agrawal)**
Judge

**Sd/**
**(Ramesh Sinha)**
Chief Justice

sagrika