

(2023) 05 JH CK 0008

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 207, 1564 Of 2014

Basant Kumar Vishwakarma And Others

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 04-05-2023

Acts Referred:

Indian Penal Code, 1860 — Section 120(B), 415, 420
Prize Chits And Money Circulation Schemes (Banning) Act, 1978 — Section 3, 6
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2023) 05 JH CK 0008

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Lukesh Kumar, Priya Shrestha, Prabir Chatterjee

Final Decision : Dismissed

Judgement

Gautam Kumar Choudhary, J

1. Both the aforesaid Cr.M.Ps. arise out of common FIR, as such, they are being heard together and will be disposed of by this common order.
2. Both the aforesaid Cr.M.Ps. have been filed for quashing of the entire criminal proceeding including the First Information Report bearing Chhatarpur P.S. Case No.4 of 2014 (G.R. No.20 of 2014) for the offence under Sections 415, 420, 120(B) and Sections 3 /6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and Bihar / Jharkhand Self Credit Co-operative Society Act, 2008 pending the court of learned CJM, Palamau at Daltonganj.
3. The S.D.O., Chhatarpur, Palamau is the informant of the case and the case has been registered in pursuance to the Memo issued by the Deputy Commissioner, Palamau dated 26.12.2013.
4. The prosecution case in brief is that one Mansar Finance Limited Chhatarpur was enquired into by the Additional Collector, Palamau and other officers and it was found that the registration of non-banking company was not as per the list

issued by the Reserve Bank of India, Patna. The company was found to be raising the deposit from public at large without proper registration from the RBI. The Company misappropriated the investments made by public at large.

5. From perusal of the status report received from the learned Court below, it appears that after investigation, charge-sheet has been submitted and cognizance was taken under Sections 415, 420, 120B I.P.C. and Sections 3, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and Bihar / Jharkhand Self Credit Co-operative Society Act, 2008 on 27.02.2017.

6. Thereafter, no coercive measures were ordered by this Court vide order dated 24.02.2014 passed in Cr.M.P. No.207 of 2014 and vide order dated 17.10.2014 passed in Cr.M.P. No.1564 of 2014.

7. The petitioners have preferred the instant quashing applications inter-alia on the ground that the offence as alleged is not made out on the basis of material available on record.

8. The instant quashing petitions have been filed for quashing of the FIR, but after investigation, charge-sheet has been filed and cognizance has already been taken.

9. It is submitted by the learned counsel on behalf of petitioner that Mansar Finance Company Limited is registered as non-banking finance company holding certificate of registration to accept public deposit by RBI, Jammu & Kashmir. Copy of registration has been filed. It is further submitted that offence under Sections 3 & 6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978, will not be made out as no allegations have been made regarding the necessary ingredient to make out the offence under these provisions. Reliance is placed on 1982 AIR SC 949 para 7 & 8

10. Quashing petition has been opposed by the learned counsel appearing on behalf of State. Under the circumstances, this Court is of the considered view that both the aforesaid Cr.M.Ps. have become infructuous and are dismissed accordingly.

11. It is further submitted that the witnesses have given statement of promise of wind fall return on the investment after raising deposit, the company decamped with the invested amount. The statement of the witnesses regarding it has come-up in para 42, 43 & 44 of the case diary.

12. After having considering the rival submissions advanced on behalf of both the sides and materials on record, I do not find any merit in the petition. It has been held by Hon'ble the Supreme Court in State of Odisha VS Pratima Mohanty; 2022 0 AIR(SC) 41

"That the powers under Section 482 Cr.P.C. could be exercised either to prevent an abuse of process of any court and/or otherwise to secure the ends of justice. In the said decision this Court had carved out the exceptions to the general rule

that normally in exercise of powers under Section 482 Cr.P.C. the criminal proceedings/FIR should not be quashed.”

In view of the above stated position of fact and law Criminal Miscellaneous Petition stands dismissed.