

(2023) 11 CHH CK 0023
In the Chhattisgarh High Court
Case No : Writ Petition (CR) No. 449 Of 2023

Gurmeet Singh Bhatiya

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 07-11-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 409, 420
Code Of Criminal Procedure, 1973 — Section 173(2)

Citation : (2023) 11 CHH CK 0023

Hon'ble Judges : Ramesh Sinha, CJ; Naresh Kumar Chandravanshi , J

Bench : Division Bench

Advocate : Tanuj Patwardhan, Madhunisha Singh

Final Decision : Disposed Of

Judgement

1. Heard Mr. Tanuj Patwardhan, learned counsel for the petitioner. Also heard Ms. Madhunisha Singh, learned Deputy Advocate General, appearing for respondents No. 1 to 5/State.

2. The present writ petition has been filed by the petitioner with the following prayers:

"10.1 That this Hon'ble Court be pleased to call for the entire records from the respondents for its kind perusal.

10.2 That this Hon'ble Court be pleased to issue a writ in the nature of mandamus directing the respondent No.5 to complete the investigation of FIR No. 391/20 against private respondents and arrest them without any delay and filed appropriate charge-sheet before the Court of competent Magistrate within stipulated period.

10.3 That this Hon'ble Court be pleased to issue a writ in the nature of mandamus directing respondent No. 1 to take strict actions against the delinquent officers who are not performing their duties as per law.

10.4 That respondents be directed to compensate petitioner for the delay caused in the administration of justice and costs of the petition may also be awarded to the petitioner.

10.5 That any other order or orders, direction or directions, writ or writs, as this Hon'ble Court may deem fit under the facts and circumstances of the case may also be issued in favour of the petitioners against the respondents."

3. Learned counsel for the petitioner submits that petitioner is the Director of Hathway CBN Multinet Pvt. Ltd, Address Plot No. 05 Galaxy Complex Supela, Bhilai, District Durg (C.G.). In addition to the petitioner, the respondents No. 6 to 13 were also the Directors of the company. The company has been involved in cable networking and were running the business since 2010. He further submits that the petitioner has requested private respondents to give the profit and company's accounts, but they have failed to produce any record, the petitioner used to ask for profit and in return, petitioner received only hollow promises from the private respondents.

4. Learned counsel for the petitioner further submits that in the year 2016, after Government of India issued directives to install digital boxes to digitize the service, thereafter, the petitioner was apprised by one Director, namely, Abhishek Aggrawal that company started distribution of digital connection. He also submits that the petitioner has asked for profits from private respondents, but received only false promises and they said that profit will only be given as soon as distribution works get completed. The petitioner never received any profit from the above mentioned private respondents.

5. It is further submitted by the learned counsel for the petitioner that the petitioner was suspicious of the business activities of the above named persons, and asked for information regarding company's account in the form of company's account book etc., and came to know that private respondents have colluded and has illegally bought set top box from Indore which were used in our business, behind the back of the petitioner and also used fake and forged documents to run the business which caused Rs.2,19,00,000/- loss to business of the Company. It is pertinent to mention here that by such activities the petitioner as shareholder and director of the Company has also incurred monetary losses. He also submits that the petitioner also came to know that the private respondents have not deposited Rs. 10,00,00,000/- and an amount of Rs. 8,47,00,000/- approx got the company as carriage fee in the accounts of the company thereby embezzled money by distributing among themselves illegally, due to which the company suffered loss of about Rs. 18,60,00,000/- also with the same mudus-operendi, the private respondents have deliberately modified documents of the company and caused loss of Rs. 36,00,00,000/-approximately estimated to the company. Respondent No. 7/Abhishek Aggrawal used to run the company who incidentally used company funds for his personal use and misappropriated the funds alongwith other private respondents thereby causing huge loss to the company. The petitioner has from his own sources came to know that for the last

several years, the private respondents have colluded and generated fake bills to show fake purchase in the name of different traders thereby got companies fund, by which company incurred loss of Rs. 5,00,00,000/- which can be verified from there cords of the company, the said record is in the possession of Abhishek Aggrawal/respondent No. 7. It is pertinent to submit here that the private respondents have misappropriated funds received from local cable operators by not issuing receipts of company of the said amount and used it personally, hence caused serious loss to company.

6. Learned counsel for the petitioner submits that respondent No. 7/ Abhishek Agrawal has opened an account in Central Bank of Civil lines and Shankar Nagar branches and deposited the above said amounts and used it personally behind the back of petitioner and in these transactions respondent No. 6/Ashok Aggrawal played active participation and by this act they have caused huge loss to the company. He also submits that the petitioner has also lodged complaint before the Registrar of Companies, thereafter, petitioner was contacted by the private respondents and gave assurance that they will pay profit of the company anytime soon and will refund the amount of loss incurred by the company. Petitioner believed upon assurances given by the private respondents, but have not received single penny by the private respondents and hence, the petitioner was compel to lodge complaint before the Supela Police Station, Distt- Durg C.G. and thereafter the F.I.R. No. 391/2020 was registered against the private respondents for the offence punishable under Sections 34, 120-B, 409 and 420 of the Indian Penal Code, 1860.

7. Learned counsel for the petitioner further submits that one of the prime objects of criminal justice administrative system is to protect the society from the accuse persons by keeping the accused persons behind bars, it also helps in achieving the goal of maintaining crime free environment. Looking to the inaction of the police authorities, petitioner made complaint to respondent No. 5 and prayed to file the final report in the matter in hand. Therefore, petitioner upon seeing inaction of the respondents authorities again wrote a letter to respondent No. 4 and again prayed to direct the investigating authority to submit final report before the concerned court. He also submits that the petitioner is being made to run from pillar to post and he having no other remedy is bound to take shelter of this Court. The unlawful behaviour and attitude of the police authorities have made the petitioner helpless.

8. On the other hand, learned Deputy Advocate General, appearing for respondents No. 1 to 5/State would submit that the investigation is under progress and the police report will be submitted shortly.

9. We have heard learned counsel for the parties and perused the prayers and pleading made in the writ petition along with the annexures annexed in this case.

10. Considering the above mentioned facts, the present writ petition is disposed off with a direction to the concerned Superintendent of Police / Senior

Superintendent of Police to ensure that the investigation of the present case be concluded within a period of six weeks from today, if already not concluded and submit a Police report under Section 173(2) of the Cr.P.C. before the competent Court within the aforesaid period in accordance with law. The prayer made by the petitioner for arresting the private respondents is rejected.

11. Learned Deputy Advocate General is directed to send a copy of this order to the concerned Superintendent of Police / Senior Superintendent of Police to ensure the compliance of this order.