
(2021) 09 JH CK 0015

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1392 Of 2021

Paltu Mandal

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 07-09-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120(B), 406, 409, 420 Code Of Criminal Procedure, 1973 — Section 156(3)

Citation : (2021) 09 JH CK 0015

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Arun Kumar, Shailendra Kumar Tiwary

Final Decision : Dismissed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Arun Kumar, the learned counsel for the petitioner and Mr. Shailendra Kumar Tiwary, the learned counsel for the State.

2. This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

3. The petitioner has filed this petition for quashing the First Information Report in connection with Daltonganj Town P.S. Case No. 177/2019 registered under sections 406/409/420/120(B)/34 of the Indian Penal Code, pending in the court of learned Chief Judicial Magistrate, Palamau at Daltonganj.

4. The complaint case was filed on the following facts:

"That the prosecution case has been lodged on the basis of complaint petition filed by the informant/opposite party no.2 before the learned court below against the petitioner including other accused persons stating therein the accused no.1,

2 and 3 are working as Chief Manager, Director, Managing Director and Executive Officer in Jivan Astha International Ltd. and they permanently resides at Kolkata. The accused persons extended their business around Bihar and Jharkhand also. The business of the organization is that the people to be joined as agent and member for transaction of money. The accused persons used to come Daltonganj-Palamau for purpose of personal work and in that intervening period in the year 2012, the informant came in contact of accused no.2 Saukat Gupta in Hotel Jyoti Lok and who told about his company and shown the documents and certificate of the company, that time other persons were also present thereon and the accused no.2 told that his company use to double the amount in minimum period and agents shall also be got benefit. Thereafter the informant was called to Kolkata to meet with the accused no.1 (petitioner) and 3 then the informant along with other persons Arun Kumar Ravi, Shivraj Ram and Ravindra Kumar Kuswaha had gone to Kolkata, where the accused persons convinced them to invest the amount in the company. The informant and other persons after seeing the documents and profit of the company, impressed with the company and on 14.11.2012 he became an agent of the company and the amount of many people was disputed in the company and against that the company issued Bond and money receipt to the consumers. The informant deposited the amount in the A/c No. supplied by the accused persons bearing A/c No.502000894700 IFC Code HDFC 0002899 HDFC Bank Kolkata A/c No.122422000000983 and A/c No.1107988533 IFC Code HBIN 0000093 State Bank of India, Kolkata.

It is further stated that the accused person used to come Palamau at Daltonganj for spreading his business in Gadghwa, Patan and Painiganj area and to join the consumers for investing huge amount in the company on the ground to return double amount on maturity and Arun Kumar Ravi deposited the amount, where maturity value of Rs.20,00,000/- (rupees twenty lakh only) of thirty consumers, Ravi Kumar Kushwaha deposited Rs.5,00,000/- (five lakh only) of thirty consumers and informant had deposited Rs.2,00,000/- (rupees two lakh only) of 50 consumers. It is further alleged that after maturity when the informant asked for payment, the accused persons started evading and they assured to deposit the amount in the A/c. But till today they have not deposited the amount in the A/c of the informant or in the A/c of the consumers, as such the accused persons grabbed the entire amount. Once the informant along with Arun Kumar Ravi went to Kolkata, then accused no.2 had given a cheque of rupees one Lakh, which was dishonored. Thereafter the informant tried to contact with the accused persons through phone but they did not receive the phone and they changed their mobile number and leave the contact with the people. Thereafter the informant sent a legal notice to the accused persons but the accused no.1 (petitioner) replied that he leaved the company whereas notice of accused no.2 returned back"

5. The learned Magistrate referred the said complaint to the Officer Incharge, Daltonganj Police Station for registering the F.I.R under section 156(3) Cr.P.C. The only ground has been argued on behalf of the petitioner by Mr. Arun Kumar,

the learned counsel that the Magistrate on the complaint simply referred the matter to the police under section 156(3) Cr.P.C without describing any reason. To buttress his this argument, he relied in the cause of "Priyanka Shrivastava and Another v. State of Uttar Pradesh" reported in (2015) 6 SCC 287.

6. On perusal of the content of the F.I.R it transpires that the petitioner and the concerned company have obtained the money of the innocent persons on the ground that the said amount will be doubled in future and on maturity when the said amount was demanded, the benefit of that, even the amount has not been paid. Thus, the facts of this case and the case of "Priyanka Shrivastava and Another" (supra) are different. In the case of "Priyanka Shrivastava and Another" (supra) the persons who have not been able to return the loan has filed the case against the bank officials. This complaint has been filed on the affidavit, thus, one part of the order in "Priyanka Shrivastav and Another" (Supra) is compiled in filing the complaint. The learned Magistrate after going through the contents of the complaint must have referred the case under section 156(3) Cr.P.C.

7. In view of above facts, the Court is not inclined to interfere with the F.I.R as no ground for quashing the F.I.R is made out.

8. Accordingly, this petition [Cr.M.P.No.1392 of 2021] is dismissed.