

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Criminal Revisional Jurisdiction)

Cr. Revision No.43 of 2023

Chandra Sekhar Saw @ Chandra Shekhar Rao @ Chandra Shekhar Sao,
aged about 56 years, Son of Late Pratap Chandra Saw @ Pratap Chandra
Rao, Resident of Dahmunda, J.L. No.8, Satma, PO & PS Satma, District
West Midnapur, West Bengal Petitioner
Versus

1. The State of Jharkhand
2. Lalit Lohar, S/o Sufal Lohar, R/o Vill: Jhaliarama, PS Sonua, District
Singhbhum (West), Chaibasa, Jharkhand Opposite Parties

With

Cr. Revision No.47 of 2023

Nand Kishore Mishra, aged about 49 year, Son of Shri Ram Krishna
Mishra, Resident of Holding No. E-177, A-Block, Basti Area, PO & PS
Sonari, Town Jamshedpur, District East Singbhum, Jharkhand
..... ... Petitioner
Versus

1. The State of Jharkhand
2. Lalit Lohar, S/o Sufal Lohar, R/o Vill: Jhaliarama, PS Sonua, District
Singhbhum (West), Chaibasa, Jharkhand Opposite Parties

(Heard on 21.12.2023)

PRESENT

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner	: Mr. Anoop Kumar Mehta, Advocate
For the State	: Mr. Shiv Shankar Kumar, APP Mr. Shailesh Kumar Sinha, APP
For the OP No.2/Informant	: Mr. Rahul Kumar, Advocate

J U D G M E N T

CAV On 21st December 2023

Pronounced on 19th January 2024

Per, Subhash Chand, J.

Cr. Revision No.43 of 2023

This criminal revision has been directed against the order dated 21.11.2022 passed in MCA No. 393 of 2022 arising out of Sonua PS Case No. 52/2019 (G.R. Case No.140/2022) passed by learned SDJM (Porahat), West Singbhum, Chaibasa whereby the learned court has rejected the discharge application of the petitioner under section 239 of Cr.PC.

Cr. Revision No.47 of 2023

2. This criminal revision is on behalf of petitioner Nand Kishore Mishra against the order dated 21.11.2022 passed in MCA No. 377 of 2022 arising out of Sonua PS Case No. 52/2019 (G.R. Case No.140/2022) passed by learned SDJM (Porahat), West Singhbhum, Chaibasa whereby the learned court has rejected the discharge application of the petitioner under section 239 of Cr.PC.

3. Both these criminal revision have been directed against the same impugned judgment in same Sonua PS Case No. 52 of 2019 (G.R. Case No.140/2022) whereby the discharge application of both the petitioners have been rejected therefore both these criminal revisions are being disposed of by the common order.

4. The brief facts leading to these criminal revisions are that informant Lalit Lohar had given the written information on 23.12.2019 with the police station concerned with these allegations that in between the year 2010 to 2013 Dukhu Murmu and Nand Kishore Mishra, M.D. of Satya Sai Building Project Pvt. Ltd., Chandra Shekhar Sao, Director of Satya Sai Building Project Pvt. Ltd., Shankar Lal and Dhunu Manjhi, Director of the company, all had allured the gentle villagers to double their money/paisa in three years if the same was invested in their company. The people of the Bari, Boykeda, Golmunda, Porahat *panchayat* more than hundred people invested their lacs of money in the company in Satya Sai Building Project Pvt. Ltd. and Sankalp Reality Company. After lapse of the said term as assured on demand of the payment of the double money invested by the villager, it was told by Dukhu Murmu that all the papers are in possession of Chandra Shekhar Rao, Dhunu Manjhi, Nand Kishore Mishra and Shankar Lal who are the office bearer of Satya Sai Building Project Pvt. Ltd. and Sankalp Reality Company as well. On making demand no money was refunded. The office of the company has also been closed. This FIR was lodged by Lalit Lohar against Dukhu Murmu, Nand Kishore Mishra, Chandra Shekhar Sao, Shankar Lal, Dhunu Manjhi alongwith the application of the villagers which was signed and thumb impressed by the villager who had invested their money was also annexed.

On this written information, the case crime no.52 of 2019 was registered with PS Sonua District Chaibasa under section 406, 420, 467, 468, 471 and 120B of the Indian Penal Code and Section 4 of Prize Chits and Money Circulation Scheme (Banning Act), 1978 against Nand Kishore Mishra, Chandra Shekhar Sao, Shankar Lal and Dhunu Manjhi.

5. The IO conducted the investigation and during investigation in **para-13** of the case diary recorded the restatement of Lalit Lohar in which he reiterated all the allegations which he had made earlier in the written information. **In para-19** of the case diary statement of Guruwa Manjhi also corroborating the prosecution story stated that in the year 2010 in their village Dukhu Murmu who was agent of Satya Sai Building Project Pvt. Ltd. and Sankalp Reality Company had come alongwith his companions to their village Jhaliamara who had introduced his companions to the villagers Nand Kishore Mishra as the M.D. of Satya Sai Building Project Pvt. Ltd., Chandra Shekhar Sao, Director of Satya Sai Building Project Pvt. Ltd., Dhunu Manjhi, Director of Satya Sai Building Project Pvt. Ltd. and Sankalp Reality Company and Shankar Lal Director of the said company. He and other persons of the village in between 2010 to 2013 deposited the money as allured by them that the same will be double in three years and it was told to him and other villagers that receipt and bond paper of the company shall remain deposited in the office of company. As such he and the other persons of the village have been duped by them. Same kind of statement is given by Suraj Manjhi in **para no.20**, Mahati Manjhi in **para no.21**, Fagu Lohar in para no.24, Dharmu Lohar in **para no.25** in regard to the amount being deposited by them on the allurement made by the accused persons that the same shall be double in three years and the amount which was duped by them was also stated by these witnesses separately. The confessional statement of Dukhu Murmu was recorded in **para no.35** of the case diary in which he stated that on behalf of the company he was deputed to make collection in the Sonua area in village Boykeda, Jhaliamara, Arjunpur, Porahat, Panchayat Golmunda and from the two hundred villagers crores of rupees was recovered by him which was deposited to the MD of Satya Sai Building

Project Pvt. Ltd. *rasid* of which was with him. When the same money was demanded he told to the villagers that in Mauza Kokada Thana No. 1282, Halka No. 111, Block Potaka, District East Singhbhum of which Khatiyani No. 236, Plot No. 526, 52/1539 had been purchased by the company and after selling the land the money of the villagers shall be refunded. During period 2011 to 2013 he was working as an agent of Satya Sai Building Project Pvt. Ltd. and he realized 50 Lacs rupees during that period.

6. In **para-49** statement of witnesses Ravi Bodra, Gure Diggi, Sukhmati Banra, Smt. Champa Kunkal, Lakhan Banra, Pelong Bankira were recorded. In **para-55** statement of witnesses Sukda Baskey, Baset Hansda, Lal Mohan Manjhi, Nuna Besra, Sukhmaro Hansda, Chumi Baskey and Dumpi Murmu and Malho Soren were also recorded. All these were the aggrieved persons who had deposited their money and on the allurement being made them that the same shall be double as such all these witnesses were duped by the accused persons who were the office bearer of said company.

7. Learned counsel for both the petitioners have submitted that in this case prior to the written information dated 23.12.2019 which was given by Lalit Lohar two more written information were given one was given on 21.12.2019 on behalf of the several villagers in which the allegations are made that Dukhu Murmu alongwith five to six persons had come to the village and had stated that they were the officers of Sankalp Reality Company and they had duped to the villagers on the ground that the money deposited by them would be double in three years. Thereafter on behalf of 87 persons of the village the written information was given and this application was also signed by Lalit Lohar as well. In this application it was stated that in the year 2010 Dukhu Murmu had come to the village and had stated that if one thousand rupee per person of the village is deposited in Satya Sai Building Project Pvt. Ltd. and Sankalp Reality Company same will be double. The money which was deposited by the villagers on the allurement made by Dukhu Murmu same had not been refunded after the lapse of the term as assured. The contents of all the

three written information are different. The occurrence is told of the year 2010 when Dukhu Murmu who come to the village who had told himself that the money was to be deposited in Sankalp Reality Company. Satya Sai Building Project Pvt. Ltd. was incorporated in the year 2011. The petitioner Chandra Shekhar Sao and anothers were inducted as Director of the company subsequently Shankar Lal, Dhani Ram Tudu and Nand Kishore had resigned on 26.03.2013. The petitioner Chandra Shekhar Sao has no concerned whatsoever with Sankalp Reality Company. Since the Satya Sai Building Project Pvt. Ltd. was not in existence in the year 2010 as such the allegations made against the petitioners are belite. The learned lower court had not taken into consideration this material and rejected the application for discharge of the petitioner. In support of the submissions the learned counsel for the petitioner relied on following case law “*T.T. Antony v. State of kerala & Others with analogous cases*” (2001) 6 SCC 181, “*Aneeta Hada v. Godfather Travels & Tours Private Limited with analogous cases*” (2012) 5 SCC 661, “*Dipakbhai Jagdishchandra Patel v. State of Gujarat & another*” (2019) 16 SCC 547, “*Ghulam Hassan Beigh v. Mohammad Maqbool Magrey & others*” (2022) 12 SCC 657 and “*Kanchan Kumar v. State of Bihar*” (2022) 9 SCC 577.

8. The same argument was adopted on behalf of the petitioner Nand Kishore Mishra and contended to set aside the impugned order.

9. I have heard the learned counsel for the petitioner and learned APP for the State in both the criminal revision petitions and perused the material on record. It is the settled law that while framing the charge the court has to take into consideration the allegations made in the FIR and the evidence collected by the IO, if from the same there are sufficient ground to proceed with the trial the court should decline to allow the discharge application. It is also the settled law that while framing the charge the court cannot appreciate the evidence, the marshaling of evidence, appraisal of evidence and conducting mini trial are not permissible while framing charge. The defense case or defense document can also not be taken into consideration at the time of disposing the discharge application unless and until the defense case absolutely oust rules the prosecution story.

10. Herein it would be pertinent to give the following legal propositions of law as laid down by the Hon'ble Apex Court.

10.1 In **“Sanghi Brothers (Indore) Private Limited v. Sanjay Choudhary and others” (2008) 10 SCC 681**, the Hon'ble Apex Court has held at para-11, which reads as under:

“11. Sections 227, 239 and 245 deals with discharge from criminal charge. In State of Karnataka v. L. Muniswamy it was noted that at the stage of framing the charge the court has to apply its mind to the question whether or not there is any ground for presuming the commission of offence by the accused. The court has to see while considering the question of framing the charge as to whether the material brought on record could reasonably connect the accused with the trial. Nothing more is required to be inquired into.”

10.2 In **“Rukmini Narvekar v. Vijaya Satardekar and others” (2008) 14 SCC 1**, the Hon'ble Apex Court has held at para-38, which reads as under:

“38. In my view, there is no scope for the accused to produce any evidence in support of the submission made on behalf at the stage of framing charge only such material as are indicated in Section 227 CrPC can be taken into consideration by the learned Magistrate at that stage. However, in a proceeding taken therefrom under Section 482 CrPC the court is free to consider material that may be produced on behalf of the accused to arrive at a decision whether the charge as framed could be maintained. This, in my view, appears to be the intention of the legislation in wording Sections 227 and 228 the way in which they have to be worded as explained in Debendra Nath Padhi case by the larger Bench therein to which the very same question had been referred.”

10.3 In **“Palwinder Singh v. Balwinder Singh and others” (2008) 14 SCC 504**, the Hon'ble Apex Court has held at para-13, which reads as under:

“13. Having heard the learned counsel for the parties, we are of the opinion that the High Court committed a serious error in passing the impugned judgment insofar as it entered into the realm of appreciation of the evidence at the stage of framing charge itself. The jurisdiction of the learned Sessions Judge while exercising the power under Section 227 of the Code of Criminal Procedure is limited. Charge can be framed on the basis of strong suspicion. The Marshalling and appreciation of the evidence is not in domain of the Court at the point of time. This aspect of the matter has been considered by this Court in State of Orissa v. Debendra Nath Padhi (2005) 1 SCC 568.”

10.4 In **“Central Bureau of Investigation v. Mukesh Pravinchandra Shroff and others” (2009) 16 SCC 429**, the Hon'ble Apex Court has held at para-2, which reads as under:

“2. By the impugned order, the Special Court has discharged the

accused Raghunath Lekhraj Wadhwa, Jitendra Ratilal Shroff and Mukesh Pravinchandra Shroff from Special Case No. 4 of 1997. From a bare perusal of the impugned order, it would appear that the Special Court has virtually passed an order of acquittal in garb of the order of discharge. It is well settled that at the stage of framing of charge, what is required to be seen is as to whether there are sufficient ground to proceed against the accused. In our view, the Special Court was not justified in discharging the aforesaid accused persons.”

11. From the allegations made in the FIR and also the statement of the witnesses recorded by the IO during the investigation and also the documentary evidence collected by the IO during investigation there are sufficient ground to proceed against the petitioners from which the prima facie case is made out against both the petitioners for the offence alleged.

12. So far as the case law upon which the learned counsel for the petitioner relied his submission same are not applicable in the given facts of the prosecution case and the evidence collected by the IO.

13. In view of the above the impugned order passed by the learned court below whereby the discharge application of the petitioners have been rejected needs no interference and both these criminal revision deserves to be dismissed.

14. **Both the criminal revision petition are hereby dismissed and the impugned order passed by the learned court below is affirmed.**

15. Let the copy of the judgment be communicated to the concerned court alongwith the record.

(Subhash Chand, J.)

Jharkhand High Court, Ranchi

Dated: 19 .01.2024

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