

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPCR No.517 of 2019

Mulchand Dewangan & others **Versus** State of Chhattisgarh & Ors.

WPCR No.690/2019

27/08/2019	Mr. Shakti Raj Sinha with Mr. O.P. Sahu, Advocate for petitioners in WPCR Nos.517/2019 & 690/2019. Mr. Vivek Sharma & Mr. Devershi Thakur, Advocates for respondent in CRMP No.1419/2019. Mr. H.S. Ahluwalia with Mr. Devendra Pratap Singh, Dy. Adv. General for State. Mr. Devershi Thakur, Advocate for the Intervener. Heard on IA No.1 of 2019, application for grant of interim relief/stay filed in WPCR Nos.690/2019 & 517/2019 respectively. It is submitted by learned counsel for the petitioners in above two writ petitions that, the petitioners are the persons, who were working merely as an Agent for Anmol India Agro Farming and Dairies Farming Company. These petitioners have also made investments in the same company and in support thereof copies of documents have also been filed along with the petition. FIR has been registered against the petitioners on the basis of order passed by the Special Court (C.G. Protection of Depositors Interest Act) on 30.5.2019, but a glance of contents of FIR would itself reveal that there is no specific allegation against these petitioners. These petitioners and other investors have jointly filed Writ Petition (Criminal) No.401/2017 praying for relief in favor of the Agents and investors of the case. Thus, it is very much apparent that none of these petitioners are the Directors of said Anmol India Company and they themselves have filed a complaint before the police in this regard. The Inspector General of Police, Raipur Range, Raipur himself has issued a memo to the Superintendent of Police of different Districts directing to register a single crime and avoid multiplicity of FIR. One of the similarly placed person i.e. petitioner in CRMP No.1419/2019, has

been granted relief by the Supreme Court. In these circumstances, it has been prayed that present petitioners may also be granted interim protection till final disposal of the petition.

Learned counsel for respondent No.1 opposes the submissions made and submits that the petitioners have come before this Court praying for quashment of FIR lodged against them, which is not maintainable. There is evidence present in the case diary that all these petitioners are core members. The petitioners have made contradictory statements. In the WPCR No.401/2017 pending before this Court, these petitioners are also parties and they have made statement making allegations against one Mr. Abhishek Singh, whereas in the complaint made to the police, the petitioners have retracted from that allegation and have made a different statement and are now defending the same person. The diary statements of the witnesses reflect the name of all these applicants as the persons who have given active inducement to the investors for making investments in the aforementioned company. Reference made to Cr.M.P. No.1419/2019 as also the stay order granted by the Supreme Court, is not related to the case against the petitioners. Case of the petitioner in Cr.M.P. No.1419/2019 is different as he is not the person who gave inducement to make investment. His role was of a “Star Campaigner” for the schemes of Anmol India Agro Farming and Dairies Farming Company. Relying on the judgment of Supreme Court in **HDFC Securities Limited & others vs. State of Maharashtra & another**, reported in **(2017) 1 SCC 640**, it is submitted that after registration of FIR and during pendency of investigation, it cannot be said that any injury of irreparable nature would be caused to the persons affected. It is settled principle that if FIR discloses commission of cognizable offence, then the investigation of the same cannot be restricted.

Reliance has also been placed on the judgment of Supreme Court in **State of Telangana vs. Habib Abdullah & others**, reported in **(2017) 2 SCC 779** in which the Supreme Court has strongly deprecated the practice of passing of interim orders in a petition under Section 482 of CrPC restraining arrest of any person. Therefore, it is prayed that both the applications for grant of interim relief be dismissed.

Mr. Devershi Thakur appearing on behalf of Intervenor on behalf of the complainant/ informant of the case and made submissions in support of the State Counsel.

In reply, it is submitted by the counsel for petitioners that the diary

statements of witnesses show that the statements are omnibus in nature. Further, the order passed by SEBI is based on the order passed in CrMP No.1419/2019 which clearly shows that the petitioners are not the persons from the Board of Directors of the company, therefore, they are entitled for grant of interim relief.

I have heard the parties and perused the documents on record.

Considered the submissions made by counsel for both the sides.

The claim that has been made by the petitioners that they are merely Agent and Investors of the said company is required to be established in the investigation, whereas there is direct allegation and named FIR against the petitioners in both the petitions alleging commissions of crime as mentioned in FIR and application under Section 156 (3) of CrPC. Therefore, it appears that there is substance on the basis of which investigation can be made and therefore no order can be passed staying investigation of case against these petitioners. Particularly in view of clear-cut direction of the Supreme Court in State of Telangana (supra) that no interim order should be passed staying investigation or granting protection from arrest. However, the petitioners are at liberty to file applications for grant of bail, if so advised.

For the foregoing reasons, I do not find any reason to allow applications for grant of interim relief filed in WPCR Nos.690/2019 & 517/2019 respectively. Both the applications are accordingly rejected.

Notice be issued to the private respondents. PF as per rules.

List this case after four weeks.

In the meanwhile, the counsel appearing for respondent No.1 & 3 may file reply.

Sd/-

(Rajendra Chandra Singh Samant)

Judge