HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

W.P. (CR.) No. 840 of 2019

Abhishek Singh, S/o. Dr. Raman Singh, Aged About 38 Years, Ex Member of Parliament, R/o. Maulshree Vihar, VIP Road, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Superintendent of Police, District Rajnandgaon, Chhattisgarh.
2. Smt. Devkunwar Sahu, W/o. Shri Mandraji Ram, Aged About 45 Years, R/o. Village and Post Padumtara, District Rajnandgaon, Chhattisgarh.
3. Station House Officer, Police Station : Ghumka, Tahsil Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Respondents

W.P.(CR) No. 843 of 2019

Abhishek Singh, S/o. Dr. Raman Singh, Aged About 38 Years, Ex Member of Parliament, R/o. Maulshree Vihar, VIP Road, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Superintendent of Police, District Rajnandgaon, Chhattisgarh.
2. Dinesh Kumar Sinha, S/o. Shri Gopal Ram Sinha, Aged About 46 Years, R/o. Chikli, Ward No. 5, District Rajnandgaon Chhattisgarh.
3. Station House Officer, Police Station Rajnandgaon Kotwali, Tehsil Rajnandgaon District Rajnandgaon Chhattisgarh.

---- Respondents

W.P.(CR) No. 850 of 2019

Abhishek Singh, S/o. Dr. Raman Singh, Aged About 38 Years, Ex Member of Parliament, R/o. Maulshree Vihar, VIP Road, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Superintendent of Police, District Rajnandgaon, Chhattisgarh.

2. Hemlata Sahu, W/o. Kewal Das Sahu, Aged About 38 Years, R/o. Meretha Navagaon, Post -Karamtara, Tehsil Dongargaon, District Rajnandgaon Chhattisgarh

3. Station House Officer, P. S. Lalbagh, Tehsil Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Respondents

W.P.(CR) No. 842 of 2019

Abhishek Singh, S/o. Dr. Raman Singh, Aged About 38 Years, Ex Member of Parliament, R/o. Maulshree Vihar, VIP Road, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Superintendent of Police, District Rajnandgaon, Chhattisgarh.

2. Devendra Sahu, S/o. Puranik Ram Sahu, Aged About 42 Years, R/o. Village and Post Singhola, District Rajnandgaon Chhattisgarh.

3. Station House Officer, Police Station : Basantpur, Tehsil Rajnandgaon District Rajnandgaon Chhattisgarh.

---- Respondents

W.P.(CR) No. 871 of 2019

Abhishek Singh, S/o. Dr. Raman Singh, Aged About 38 Years, Ex Member of Parliament, R/o. Maulshree Vihar, VIP Road, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Superintendent of Police, District Rajnandgaon, Chhattisgarh.

2. Satrughan Lal, S/o. Milau Ram, Aged About 42 Years, R/o. Village Kahuakuda, Post- Singarpur, District- Rajnandaon, Chhattisgarh.

3. Station House Officer, P.S.- Ghumka, Tehsil Rajnandaon, District- Rajnandgaon, Chhattisgarh.

---- Respondents

AND

W.P.(CR) No. 853 of 2019

Abhishek Singh, S/o. Dr. Raman Singh, Aged About 38 Years, Ex Member of Parliament, R/o. Maulshree Vihar, VIP Road, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Superintendent of Police, District Rajnandgaon, Chhattisgarh.

2. Amar Lal Verma, S/o. Hukum Lal Verma, aged about 38 years, R/o. Village- Dhaba & Post -Singarpur, District – Rajnandgaon (C.G.)

3. Station House Officer, P.S.- Ghumka, Tehsil Rajnandaon, District- Rajnandgaon, Chhattisgarh.

---- Respondents

18/09/2019	Mr. Vivek Sharma, Advocate for the Petitioner. Mr. S.C. Verma, Advocate General with Mr. Ghanshyam Patel, G.A. for the State/Respondent No.1 and & 3. Mr. Devershi Thakur, Advocate for the Respondent No.2. Heard on I.A. No.1, applications for grant of interim relief in all the cases. It is submitted by the learned counsel for the petitioner that the petitioner has been falsely implicated in all the cases. There is no evidence in this respect that the petitioner was director of the said company or he gave inducement to any of the investor to make investment in the scheme, which are alleged to be fraudulent. The only statement that the petitioner has made some campaign for the said Anmol India Group of Company, is by itself no substance to constitute an offence under Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005. The Security and Exchange Board of India (SEBI) has passed the order with respect to the Anmol India Group of Company and the directors, in which it is held that the schemes of the company qualify as a Collective Investment Scheme, however, it was mandatory under law to obtain a

certificate of registration from SEBI before launching this scheme. The role of the petitioner mentioned in the FIR lodged, does not fulfill the requirement of the promoter as it is defined under Section 2 (69) of Companies Act, 2013. Therefore, there is no substance in the complaint to array the petitioner as an accused. It is also submitted that in similar case, the Supreme Court has granted interim relief to the petitioner in SLP (Criminal) 6771 of 2019 and protective order has been passed. Therefore, on this basis also, it is prayed that interim protective order be passed in favour of the petitioner.

Learned Advocate General represented the respondent No.1 and 3 submits that SEBI is not the authority to take decision whether any offence is made out or not. It is further submitted that according to the allegation in the FIR in all the cases, this petitioner had been the star campaigner for the Anmol India Group of Companies and the investigation of the case is at very initial stage, therefore, it can not be said at this stage that no case is made out against the petitioner.

With respect to the interim order of Hon'ble Supreme Court, it is submitted that the Hon'ble Supreme Court has passed the order under Article 136 of the Constitution of India and therefore, the powers of the High Court under Article 226 of the Constitution of India and Section 482 of Cr.P.C. are not comparable. It is further argued that the interim order of the Supreme Court has not made any observation on the merit of the case and laid down the ratio of law, therefore, it does not have a force or precedent and it can not be claimed that similar order be passed in this batch of cases. It is further submitted that Section 10 of C.G. Protection of Depositors Interest Act, 2005 is very exhaustive, which says every person including promoter, partner, director, manager or any other person or an employee responsible for the management of or conducting of the business or affairs or of such financial establishment shall be held responsible for fraudulent acts of the company. Therefore, this includes the person, who has campaigned for the said company, which can also be regarded as giving inducement to the investors. Similar in Section 3 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978, it is defined that no person shall promote or conduct any prize chit or money circulation scheme, or enroll as a member to any such chit or scheme, or participate in it otherwise, or receive or remit any money in pursuance of such chit of scheme, which is punishable under Section 4 of the Act. Therefore, the allegation present in the FIR are squarely covered in the definition of these provisions.

Learned Advocate General places reliance on the judgment of Supreme Court in *case of H.D.F.C. Securities Ltd. Vs. State of Maharashtra,* reported in *(2017) 1 SCC 640, Hemant Yashwant Dhage Vs. State of Maharashtra,* reported in *(2016) 6 SCC 273, Satvinder Kaur Vs. State (Govt. of NCT of Delhi)* reported in *(1999) 8 SCC 728, Mona Panwar Vs. High Court of Judicature of Allahabad,* reported in *(2011) 3 SCC 496, Vinod Raghuvanshi Vs. Ajay Arora,* reported in *(2013) 10 SCC 581, Union of India s. Ranbir Singh Rathaur,* reported in *(2006) 11 SCC 696* and it is submitted that according to the ratio laid down in these cases by the Supreme Court, these petitions have been prematurely filed, which are not maintainable. Hence, the petitioner is not entitled for any relief, even of interim nature.

Counsel for the Objector submits that so far 22 FIRs have been registered against the persons concerned of Anmol India Group of Companies, in which the name of the petitioner is mentioned with prominence. Further about 30 Writ Petition (Criminal) are pending before this Court, in which the prayer has been made for lodging of FIR against the Anmol India Group of Companies and there is specific allegation made in the complaint naming the petitioner as star campaigner. Apart from this there are other criminal cases pending in Rajnandgaon and Ambikapur and in all the FIRs lodged, the petitioner has been projected as face of the fraudulent company. The petitioner has a reputation of being political leader himself and coming from a reputed family of the State, therefore, the role played by him in campaigning for fraudulent schemes of the company has provided an umbrella to the other accused persons, who were actively engaged in the commission of offence. Placing reliance on the judgment of Supreme Court in case of *State of Tamil Naidu Vs. S. Martin & Ors., r*eported in *(2018) 5 SCC 718*, it is submitted that the investigation is still pending and is at a very initial stage in all the cases, therefore, there is no ground of interference, question can be left open to be agitated at appropriate stage, therefore, the petitioner is not entitled for grant of any relief.

In reply, it is submitted by the counsel for the petitioner in all the cases that petitioner is present before this Court because the lodging of FIR has violated his legal rights. The case of the petitioner is different from the other persons, who are accused in the same case. The petitioner has not given inducement to any of the investors to make investment in the scheme of the company. The FIR has been lodged after passing of about 10 years. The Hon'ble Sureme Court has after considering all the aspects, passed the order in favour of the petitioner in SLP (Criminal) No. 6771/2019 giving protection to him, therefore, it is prayed that applications for interim relief be allowed.

I have heard the learned counsel for the parties and perused all the documents placed on record.

Considered on the submissions made by the counsel appearing for both the sides. On perusal of the copy of the FIR attached with these petitions, it is found that name of the petitioner has appeared with prominence as star campaigner of the scheme. According to submission made from both the sides and the contents of FIR, it is found at this stage the respondents have made allegation of only under Section 10 of C.G. Protection of Depositors Interest Act, 2005 against this petitioner.

Section 10 of C.G. Protection of Depositors Interest Act, 2005 is reproduced as here under :-

> ***"10. Punishment for defaults by financial establishment*** – Where any financial establishment fraudulently defaults or any financial establishment acts in a calculated manner with an intention to defraud the depositors, every person including the promoter, partner, director, manager or any other person or an employee responsible for the management of or conducting of the business or affairs or of such financial establishment shall be punished with imprisonment for a term which shall not be less than 3 years but may extend to ten years and with fine which not be less than one lakh rupees but may extend to five lakhs rupees and such financial establishment shall also be liable to fine not less three lakhs rupees but may extend to ten lakhs rupees."

Word promoter has been defined in Section 2 (69) of the Companies Act, 2013, which means, who has been named as such in a prospectus or is identified by the company in the annual return referred to in Section 92; or who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or in accordance with whose advise, directions or instructions the Board of Directors of the company is accustomed to act and there is proviso that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity. Therefore, this proviso excludes a person hired or invited for making campaign.

As submitted by the learned Advocate General that word "any other person" mentioned in Section 10 of C.G. Protection of Depositors Interest Act, 2005 shall encompass the role of the petitioner. I do not agree with this submission because the word "any other person has" to be read along with the whole sentence, which adds "responsible for the management of or conduct of the business or affairs or of such financial establishment." Copy of the order of SEBI, which is annexed with the petition does not mention the name of the petitioner as one of the director or promoter or any person concerned with the management of the affairs of the company. Therefore, in this petition there is debatable and arguable question raised by the petitioner, hence for these reasons I feel inclined to allow these applications for grant of interim relief.

Accordingly, I.A. No. 1 applications for grant of interim relief in all the cases are allowed on temporary basis and it is ordered that no coercive steps shall be taken against the petitioner, till the next date of hearing. However, petitioner is directed to cooperate with the investigation of the cases.

A notice be issued to the respondent No.2, in all the cases, which shall be returnable within four weeks.

List this case after four weeks.

In the meanwhile, the State counsel appearing for the respondent No.1 and 3 may file detailed reply.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

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