



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus, Mumbai - 400 001

Tel : 22092857 Email:- court2-mshrc@mah.gov.in

SHRC/MAS/ /2023/

Date:

MAS/ Case No. - 2313/13/17/2020

Name of the Complainant : Raju S. Masaram
At Mohgaon, Post Khopa
Tal. Katol, Dist. Nagpur

V/s.

Name of Respondent : Commissioner of Police,
Nagpur

Order Date : 29th May, 2023

Coram : M. A. Sayeed, Member

ORDER

After having scrutinized the record carefully, it does appear that at the behest of the complainant, Crime no. 161/20 u/s. 406, 420 IPC came to be registered and before the investigation could reach to a logical conclusion, the alleged accused who not only cheated but deceived the complainant / victim of parting with sumptuous amount of Rs.22,50,000/- went underground and could not be apprehended which virtually brought the investigation to a dead end. This aspect emerges from the police enquiry report Ex. 'A'.

2. However, I am of the opinion that the police cannot claim to be in a helpless situation as it can very well proceed with the investigation and submit charge sheet u/s. 299 Cr. PC which for the sake of clarity is reproduced in verbatim as under:

"Sec. 299:Record of evidence in absence of accused:-

- 1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court

competent to try or commit for trial such person for the offence complained of, may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions and any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

- 2) If it appears that an offence punishable with death or imprisonment for life has been committed by some person or persons unknown, the High Court or the Sessions Judge may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence and any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of India”

3. Thus, with such legal proposition on record, the complaint can be closed with a direction to Commissioner of Police, Nagpur to ensure submission of charge sheet in the absence of the accused by following the provisions of Sec. 299 supra above.

With these directions and observation the present complaint stands closed and disposed off with the direction to the Ld. Secretary attached with the Commission to forward the copy of the order to Additional Chief Secretary, Home Department, Mantralaya, Mumbai and Commissioner of Police, Nagpur for necessary compliance by following the procedure u/s. 18(e) of the Act of 1993 r/w. Reg. 22 to 24 of Maharashtra State Human Rights Commission (Procedure) Regulations, 2011.

M. A. Sayeed
((M. A. Sayeed)
Member
29/05/22