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CRR-1516-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

CRIMINAL REVISION No. 1516 of 2025*YATINDRA**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Ms.Sudha Shrivastava -Senior Advocate with Ms.Jagriti Thackar for
the petitioner .

Shri S.S Thakur -G.A for the respondent/State.

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Reserved on 01.07.2025

Pronounced on 10.07.2025

ORDER

This criminal revision under section 397 read with section 401 of the Cr.P.C, 1973 and section 438 of the BNSS, 2023 is preferred challenging the legality of the order dated 10.02..2025 in special case No.15/2025 by 19th A.S.J, Indore whereby charges under sections 409 read with section 34 and section 420 read with section 34 of the IPC have been framed against the present petitioner/accused in a case arising out of crime no.07/2023 registered at PS Palasia, district Indore (Urban).

2. Facts in brief are that a crime no.07/2023 at PS Palasia, district Indore (Urban) was registered on 08.01.2023 on the enquiry of a complaint filed by one Dharmendra Singh s/o Budhipal Singh Rathore. The offence



was registered under sections 420 & 409 of the IPC and section 6 of the Madhya Pradesh Nikshepako Ke Hiton Ka Sanrakshan Adhiniyam, 2000 against the present petitioner Yatindra Randhar and Sachin Gyaneshwar Dahake and other persons. After investigation, a final report was submitted before the JMFC, Indore under sections 420, 409, 406 of the IPC and section 6 of the Madhya Pradesh Nikshepako Ke Hiton Ka Sanrakshan Adhiniyam, 2000. The case was committed to the court of Sessions and vide impugned order the charges under section 409 r/w section 34 and section 420 r/w section 34 of the IPC were framed against the present petitioner.

3. Challenging the framing of charges, this criminal revision has been preferred on the ground that there is no direct financial transactions with the complainants. The investigation revealed that no complainants directly deposited funds into petitioner Yatindra Randhar's personal accounts. The only alleged transaction linking the petitioner Yatindra is from one Ravi Solanki, whose amount was later transferred to Comsys Infotech company account demonstrating no personal misappropriation by the petitioner. The petitioner himself is a victim. He also invested a substantial amount (approximately Rs.20 lakhs) in Comsys Infotech and Globe 2 Trade companies as per his statement. His son Amogh Randhar similarly invested money in these companies but did not receive their returns. The petitioner is an investor and not an orchestrator of fraud. The petitioner has no role in managing financial affairs of the companies in question i.e. Comsys Infotech and Globe 2 Trade companies and that were owned and managed by co-accused Sachin Gyaneshwar Dahake. All the



accounts and financial dealings of above two companies were under Sachin Gyaneshwar Dahake's control and here is no evidence suggesting that the petitioner has any ownership or decision making authority in these entities. The petitioner was a regular investor and not a beneficiary. The FIR does not establish that he withdrew any funds or profited from the schemes. The petitioner did not conceal or abscond. He cooperated with the police in the investigation. He voluntarily made available financial records and his investment details demonstrating good faith. The charges under sections 420 & 409 r/w section 34 of the IPC require active fraudulent intent and criminal breach of trust. The petitioner neither had managerial position in the alleged fraudulent companies nor induced the complainant to invest. The police investigation itself confirms that accounts used for fraud were in the name of Comsys Infotech and its associated entities and not in the petitioner's name. There is contradictions in the witnesses statements regarding investment returns that witnesses stated in their statements under section 161 of the Cr.P.C. Trial court failed to justify the application of section 409 of the IPC against the petitioner. He is not within the purview of the persons required for the application of section 409 of the IPC. There is no entrustment of property.

4. Heard.
5. State opposed the petition.
6. Perused the record.
7. The duty of Court at the stage of framing of charge is to see whether the ingredients of the offences are available in the material produced



before the court or not. The contradictions in the statements of the witnesses or sufficiency or truthfulness of the material placed before the Court cannot be examined at the stage of framing the charges. For this limited purpose, the Court may shift the evidence. The Court has to consider the material only with a view to find out if there is ground for presuming that the accused has committed an offence and not for the purpose of arriving at a definite conclusion. "Presume" means if on the basis of material on record, the Court can come to the conclusion that commission of the offence is a probable consequence, then the case for framing of charge exists. In the light of above, this Court is examining the framing of charge against the revision petitioner.

8. The final report mentions that charge under section 420, 406 of the IPC are found against the present petitioner and only one Ravi Solanki has invested money through Yatindra and Yatindra has deposited the same in the account of Comsys Infotech company maintained by Sachin Gyaneshwar Dahake but the trial court has framed the charges under section 409 r/w section 34 and section 420 r/w section 34 of the IPC.

9. In **Dinesh Tiwari vs. State of UP - (2014) 13 SCC 137**, it is held that on perusal of record and hearing the parties, at the stage of discharge under section 227 of the IPC, if the Judge is of the opinion that there is ground for presuming that the accused has committed offence, he is competent to frame charge for such offence even if not mentioned in the charge sheet. Accordingly, the ground that final report submitted by the Police Station, Palasia, district Indore does not mention the offence of



section 409 IPC against the present petitioner has no relevance.

10. The complaint of Dharmendra Singh Rathore which was the basis for conducting the enquiry in this case mentions in para-2, 3, 4, 5, 6 & 7 that present petitioner Yatindra Randhar is the member of core committee to manage Comsys Infotech and Globe 2 Trade companies and introduced himself as Director of the Indore office of those companies through which many large number of persons were induced to invest money and for this purpose social media platforms were used. Another complainant/victim viz. Santosh Jaiswal s/o Bharat Jaiswal and Ravi Solanki s/o Bhagwansingh Solanki have also stated that Yatindra Randhar was instrumental for inducing him to invest money in those companies. He was induced to invest on the assurance of high percentage of profits.

11. For appreciating the contentions of the revision petitioner, we are reproducing section 409 of the IPC as under:

409. Criminal breach of trust by public servant, or by banker, merchant or agent.—Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.



12. The above reading of section 409 of the IPC attracts on the agent also and a contract of agency may be in oral. The complaints and statements of Dharmendra, Ravi Solanki, Santosh Jaiswal disclose that Yatindra was presenting himself as the office bearer of the above Comsys Infotech and Globe 2 Trade companies. Accordingly, he falls within the definition of agent. The fact that he also suffered loss does not absolve him from the criminal liability. The material collected possesses the test of grave suspicion required for framing of charge as framed by the trial court. Some of the contentions raised by the revision petitioner may be a matter of defence but discharge cannot be claimed on that basis.

13. In view of the above, this criminal revision being devoid of merit is hereby dismissed.

(GAJENDRA SINGH)
JUDGE

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